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BUILDING A 21ST-CENTURY INFRASTRUCTURE FOR AMERICA: MITIGATING DAMAGE AND RECOVERING QUICKLY FROM DISASTERS

(115–12)

HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

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FIRST SESSION

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Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

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Katherine W. Dedrick
Democratic Staff Director

April 21, 2017

SUMMARY OF SUBJECT MATTER

TO:	Members, Subcommittee on Economic Development, Public Buildings, and Emergency Management
FROM:	Staff, Subcommittee on Economic Development, Public Buildings, and Emergency Management
RE:	Subcommittee Hearing on "Building a 21st Century Infrastructure for America: Mitigating Damage and Recovering Quickly from Disasters"

PURPOSE

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Thursday, April 27, 2017, at 10:00 a.m. in 2167 Rayburn House Office Building, for a hearing titled "Building a 21st Century Infrastructure for America: Mitigating Damage and Recovering Quickly from Disasters." The purpose of the hearing is to examine how to protect infrastructure against future disaster damage, how to lower the overall disaster costs, and to identify challenges facing the Federal Emergency Management Agency (FEMA) in responding to, recovering from, and mitigating against disasters, both natural and manmade. Witnesses include two former FEMA Administrators, the State of Oregon, the Build Strong Coalition, and the International Association of Fire Chiefs.

BACKGROUND

Disaster Losses and Federal Disaster Spending Have Increased Significantly

According to numerous studies, disaster losses and federal disaster spending have increased significantly over the last 50 years. In 2012, Munich Re, the world's largest reinsurance company, reported that between 1980 and 2011, North America suffered $1.06 trillion in total losses, including $510 billion in insured losses, and an increase in weather-related events five-fold over the previous three decades.[1] In 2005, it was reported that since 1952, the

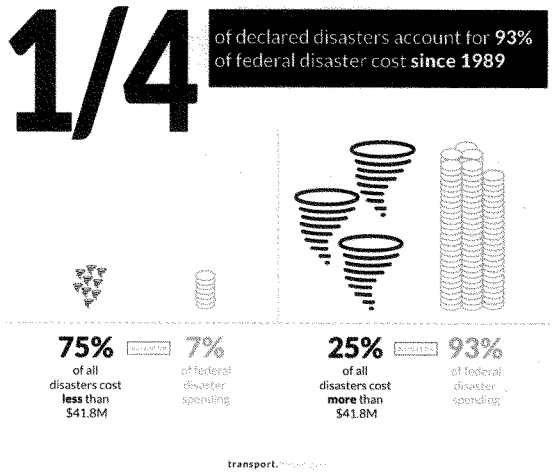
[1] Munich Re (2012). *Severe weather in North America – Perils Risk Insurance.* Munich, Germany: Muchener Ruckversicherungs-Gesellschaft.

cost of natural disasters to the federal government more than tripled, as a function of gross domestic product.[2]

There are numerous causes that may be driving these costs including population growth and increased density in disaster-prone areas, changes in weather and fire events, and changes in disaster relief programs. In a recent report, FEMA acknowledged the increase in the number of extreme disaster events and increased vulnerabilities throughout the United States due to shifting demographics, aging infrastructure, land use, and construction practices.[3]

A Few Disasters Account for Most Costs

The Congressional Research Service (CRS) analyzed data from over 1,300 major disasters since 1989, and adjusting for inflation, found that FEMA obligated more than $178 billion for these disasters.[4] However, CRS also found that 25 percent of all disasters account for over 92 percent of disaster costs.[5] Therefore, the remaining 75 percent of smaller disasters constitute less than eight percent of FEMA disaster spending. See the diagram below:

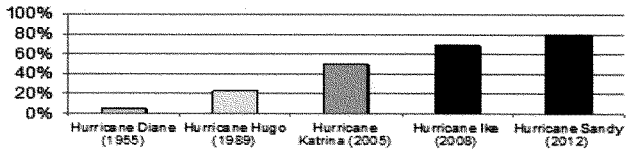


[2] The Princeton University Geoscience 499 Class, *The Increasing Costs of U.S. Natural Disasters.* Geotimes, November 2005.
[3] Federal Emergency Management Agency, *National Strategy Recommendations: Future Disaster Preparedness.* September 6, 2013. Available at http://www.fema.gov/media-library-data/bd125e67fb2bd37f8d609cbd71b835ae/FEMA+National+Strategy+Recommendations+(V4).pdf.
[4] CRS Memo *Data Analysis for House Transportation and Infrastructure Committee,* January 14, 2015.
[5] *Id.*

The Percentage of Disaster Costs Covered by the Federal Government is Increasing

FEMA is the federal government's lead agency for preparing for, mitigating, responding to, and recovering from disasters and emergencies related to all hazards whether natural or man-made. When state and local resources are overwhelmed and the "disaster is of such severity and magnitude that effective response is beyond the capabilities of the state and the affected local governments,"[6] the Governor of the affected state may request that the President declare a major disaster. As the following diagram illustrates, the financial burden of disaster response has fallen increasingly on the federal government.

Role of Federal Government in Disaster Loss Payment (proportion of total economic loss)



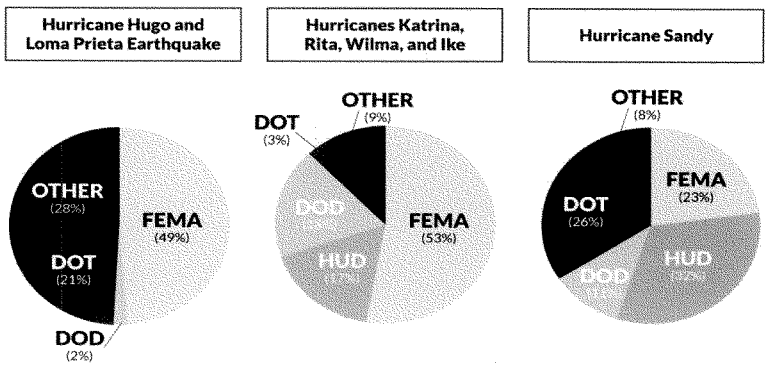
Sources: E. Michel-Kerjan, Have We Entered an Ever-Growing Circle on Government Disaster Relief? - Presentation before the U.S. Senate (2013).

The Number of Federal Disaster Assistance Programs is Increasing

FEMA was established in 1979 to centralize and better coordinate the federal government's disaster activities, which had been scattered across the government and poorly coordinated in response to the Three Mile Island nuclear disaster and several other disasters. Over time, numerous other agencies have received authorities and appropriations for additional federal activities and programs focused on disaster recovery. These programs have differing legal authorities, eligibility requirements, and objectives. The following diagram illustrates how over time the number of non-FEMA disaster assistance programs and the amount of funding made available for non-FEMA disaster assistance programs have grown.

[6] 42 U.S.C. § 5170.

Growth of Non-FEMA Federal Disaster Aid



Most recently, the following programs have been significantly involved in disaster recovery, and, as such, received funding in the wake of Hurricane Sandy.

- Housing and Urban Development (HUD) Community Development Block Grant Disaster Funds (CDBG-DR) – Congress can provide funding for disaster recovery through HUD's CDBG Program. Most recently, funds were made available to provide non-competitive, nonrecurring assistance targeted at low-income areas impacted by disasters in 2011, 2012, and 2013.

- U.S. Department of Transportation (USDOT) Federal Transit Administration Emergency Relief Program (ERP) – The ERP's purpose is to help states and public transportation systems pay for protecting, repairing, or replacing equipment and facilities that may suffer or have suffered serious damage because of an emergency, including natural disasters. The ERP is also intended to improve coordination between USDOT and the Department of Homeland Security to expedite assistance to public transit providers in times of disasters and emergencies.

- U.S. Army Corps of Engineers (Corps) – The Corps receives money for the rehabilitation, repair, and construction of projects. These funds are available to projects provided that they reduce future flood risk and support long-term sustainability.

Mitigation Measures as a Strategy to Reduce Disaster Losses

Disaster mitigation includes actions taken to reduce loss of life and property by lessening the impact of disasters. Effective mitigation acts to minimize the potential loss from a disaster based on identifying and understanding the risks in a given area or community. Mitigation can encompass a wide variety of activities, including preparation and planning, elevating or moving structures prone to flooding, hardening structures to mitigate effects of hurricanes or earthquakes, and establishing building codes and zoning ordinances.

Mitigation not only saves lives but has been shown to also reduce disaster costs by minimizing damage from a disaster. For example, pursuant to a requirement of the *Disaster Mitigation Act of 2000*, the Congressional Budget Office (CBO) completed an analysis on the reduction in federal disaster assistance as a result of mitigation efforts.[7] That study examined mitigation projects funded from 2004 to mid-2007. CBO found that of the nearly $500 million invested through Pre-Disaster Mitigation grants, future losses were reduced by $1.6 billion for an overall ratio of three to one. In essence, for every dollar invested in mitigation, $3 were saved. CBO's analysis reaffirmed a prior study commissioned by FEMA and conducted by the Multihazard Mitigation Council of the National Institute of Building Sciences that concluded that funding spent on mitigation reduces future disaster costs.[8]

Initiatives to Lower Disaster Costs and Losses

FEMA's Proposal to Establish a Disaster Deductible

On January 20, 2016, FEMA published an advance notice of proposed rulemaking in the *Federal Register* soliciting comments on a proposal to establish a predetermined level of financial or other commitment from a state before FEMA will provide assistance under the Public Assistance Program when the President declares a major disaster. On January 17, 2017, FEMA issued a supplemental advance notice of proposed rulemaking providing additional details of the concept, including a model deductible program providing more specifics of what the deductible requirement may entail, including methodologies for calculating each state's deductible and credits. Comments were received until April 12, 2017.

FEMA believes the deductible model would incentivize states to make meaningful improvements in disaster planning, fiscal capacity for disaster response and recovery, and risk mitigation, while contributing to more effective stewardship of taxpayer dollars. For example, states could potentially receive credit toward their deductible requirement through proactive pre-event actions such as adopting enhanced building codes, establishing and maintaining a disaster relief fund or self-insurance plan, or adoption of other measures that reduce the state' risk from disaster events. The deductible model would increase stakeholder investment and participation in disaster recovery and building for future risk, thereby strengthening our Nation's resilience to disaster events and reducing the cost of disasters long term. During a hearing last Congress, many stakeholders expressed concern with this proposal.

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[7] Congressional Budget Office, *Potential Cost Savings from the Pre-Disaster Mitigation Program*. September 2007.
[8] Multihazard Mitigation Council, National Institute of Building Sciences (2005), *Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities.*

The FEMA Disaster Assistance Reform Act of 2015

In the 114th Congress, Chairman Barletta, Chairman Shuster, former Ranking Member Carson, and Ranking Member DeFazio introduced H.R. 1471, *the FEMA Disaster Assistance Reform Act of 2015*. On February 29, 2016, the bill passed the House. This bipartisan legislation would have established a comprehensive study to assess disaster costs and develop recommendations for reducing those costs. Specifically, the legislation would have required the National Advisory Council to conduct the comprehensive study and include policy recommendations to help reduce future losses.

Other Legislative Proposals

Other legislative proposals that have been introduced include incentives to encourage the adoption and enforcement of efforts to mitigate structures from disaster hazards and shifting investments pre-disaster to avoid losses and federal costs in the wake of a disaster.

WITNESS LIST

Andrew Phelps
Director
Oregon Office of Emergency Management

Chief John Sinclair
President and Chairman of the Board
International Association of Fire Chiefs

Mark Berven
President and Chief Operating Officer
Nationwide Property and Casualty Operations
On behalf of the BuildStrong Coalition

The Honorable W. Craig Fugate
Former Administrator
Federal Emergency Management Agency

The Honorable R. David Paulison
Former Administrator
Federal Emergency Management Agency

BUILDING A 21ST-CENTURY INFRASTRUCTURE FOR AMERICA: MITIGATING DAMAGE AND RECOVERING QUICKLY FROM DISASTERS

THURSDAY, APRIL 27, 2017

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:08 a.m., in room 2167, Rayburn House Office Building, Hon. Lou Barletta (Chairman of the subcommittee) presiding.

Mr. BARLETTA. The committee will come to order. Before we begin, I ask unanimous consent to have members not on the subcommittee be permitted to sit with the subcommittee at today's hearing and ask questions. The purpose of today's hearing is to discuss how the country can protect its infrastructure from disaster damage, control disaster spending, and ensure the Federal Emergency Management Agency is able to respond when the Nation needs it most. These are difficult challenges, and I am excited that our witnesses have brought some bold ideas to the table for tackling these problems. Addressing the rising costs of disaster, both in terms of property and human life, is my top emergency management priority. It comes as no surprise that disaster costs have grown considerably over the past three decades. What may be surprising is that this increase is caused by a small number of really big disasters. Take a look at this slide.

The Congressional Research Service reviewed disaster declarations and spending since 1989, and found that the vast majority of Federal disasters are small and have little impact on total spending. In fact, one-quarter of declared disasters—that means the big ones—account for 93 percent of all costs. In other words, we can eliminate three-quarters of all federally declared disasters, and barely cut 7 percent from Federal disaster spending. These facts are in direct contradiction to the common wisdom that disaster spending is growing because the number of federally declared disasters is growing. That simply is not true.

In addition, I would argue the amount saved by eliminating those smaller disaster declarations would not outweigh the benefit they provide in helping our smaller, remote communities respond to and recover from disasters.

So what can be done to bend the cost curve on big disasters, which is where over 90 percent of the money goes? This is a big challenge, and our witnesses have brought some bold ideas to the table for Congress to consider.

Administrator Fugate, while he was at the helm at FEMA, promoted the idea of a disaster deductible to assure States have skin in the game before they are eligible to receive disaster assistance. The BuildStrong Coalition has proposed an array of ideas, including Federal cost-share adjustments, to encourage States to take steps to strengthen infrastructure and reduce disaster damages over time.

Consolidating disaster recovery programs administered by 19 different Federal agencies under FEMA is also recommended. Congress needs to give these and other proposals serious consideration. Right after I became a Member of Congress in 2011, my own district was hit hard by Hurricane Irene and Tropical Storm Lee. As we were rebuilding, I was amazed that much of the Federal assistance was used to rebuild in the same place in the same way, leaving people vulnerable to the next storm. The Federal Government has a responsibility to respond after a disaster, but we also have a duty to be good stewards of taxpayer dollars and ensure what is rebuilt can withstand the next disaster.

Finally, as we sit here 1 month away from the start of the Atlantic hurricane season, FEMA is still without a nominee for FEMA Administrator. This is a critical and important time for FEMA, and unfortunately, it is vulnerable. As Administrator Fugate observes in his written statement, as recently as 2016, FEMA's authorities were under assault. We must remain vigilant to ensure FEMA has the necessary protections and authorities so that it is ready and able to respond when the country needs it most.

I look forward to your testimony and your ideas for how the country can protect itself from the growing cost of large disasters. And thank you for being here. At this time, I would like to recognize the chairman of the full committee, Mr. Shuster.

Mr. SHUSTER. Thank you very much, Chairman Barletta, for holding this important hearing today. I appreciate our witnesses being here. And since the beginning of this Congress, we have had a President that got elected that has been talking about the need to invest in our infrastructure, and what FEMA does is play a key role in protecting that or making sure that we are doing the right things when we are building, whether it is infrastructure of the Federal Government, or whether it is the infrastructure that we build and the homes that we build, the buildings that we build around the country.

So I have told them to be bold. Let's get great, big ideas out there. I think we are going to have an opportunity this year to do a big infrastructure bill, and that is going to probably include everything this committee, every part of this committee's jurisdiction, and it will include some other things that this committee doesn't do, like building out more broadband access, and improving our power generation grid, so we have a real opportunity here to do some important things.

So, again, we want to make sure we are bold. I appreciate the testimony today, some of the testimony I have seen. There are some bold ideas out there.

One of the things that I had the great fortune to do, and I encourage all Members to go down to the IBHS down in South Carolina and watch them burn a house or blow a house away or whatever they do. But that really is important work that the insurance industry is putting together. And what they have told me, for a couple thousand dollars on a couple hundred thousand dollar home, you can do some things to it that make it withstand some of these natural disasters.

So those are the kinds of things we need to be looking at. It is not something that I want to regulate from the Federal Government because what is good in South Carolina maybe doesn't work in Pennsylvania. But encouraging States to be looking at these kinds of things to make sure that, again, when a natural disaster occurs, you have got buildings there that can withstand this better, so that the Federal Government, as the chairman pointed out, doesn't continue to have to spend these huge amounts of money. I mean, that is one of the most important things we do, is the response to the natural disasters. And, again, it is one of the most important things this committee has jurisdiction over. So making sure we are doing the right thing is really important for us.

I know that Administrator Fugate's testimony is talking about the issue of the Agency's authorities, and I appreciate his work. And he was able to, through a personal relationship with the President, he had a direct relationship to the President, so when something happened, he was the guy they were turning to in these disasters that occur. I hope that this administration carries that on.

When they put FEMA into DHS, that was something that I opposed. I didn't think it was the best fit, but it is what it is now, and now we have got to figure out how to manage it as best we can. As I said, controlling these, the mitigation, the response to these natural disasters, is really taxing the Federal Government when they happen. Again, those numbers that the chairman put up there are quite staggering, that so few things cost the Federal Government so much money.

But, again, I look forward to hearing the testimony of our witnesses today, and I really appreciate you being here to help educate the committee on these issues. Thank you. I yield back.

Mr. BARLETTA. Thank you, Chairman Shuster, and I now call on the ranking member of the subcommittee, Mr. Johnson, for a brief opening statement.

Mr. JOHNSON OF GEORGIA. I thank you, Mr. Chairman. And I apologize for being late. I was giving a speech, and I got a little long-winded, I think, and lost control of the time.

But I thank you all for being here, and I say good morning to you. We all know that disaster costs and losses are rising. It is likely that every member of this committee has seen disasters strike in their district or in their State. While we cannot control Mother Nature, we can do something to lower disaster costs and losses. Both the Congressional Budget Office and the National Institute of Building Sciences' Multihazard Mitigation Council found

that for every dollar invested in mitigation pre-disaster, $3 to $4, respectively, are saved in future disaster spending.

Today's hearing is timely, because while we are discussing the importance of mitigating future disaster damages in an attempt to control rising disaster costs and losses, President Trump has proposed to cut or eliminate funding for the Federal Emergency Management Agency's Pre-disaster Mitigation Grant Program in his so-called skinny budget. President Trump would be wise to heed the old adage, "if it ain't broke, don't fix it."

State and local communities use pre-disaster mitigation funds to develop hazard mitigation plans, retrofit infrastructure to protect it from floods, earthquakes, and other hazards, converting flood-prone land to open space and other critical projects. Mitigating disaster damage also saves lives and reduces injuries, which is why I was disheartened to learn that FEMA had placed an administrative hold on fiscal year 2016 and 2017 Pre-disaster Mitigation Grants, and on many nondisaster preparedness grants because the President's Executive order prohibited funding to so-called sanctuary cities. Thankfully, 2 days ago, a Federal judge issued a temporary injunction on enforcing President Trump's Executive order, allowing FEMA to award these essential grants.

We must be vigilant to ensure that the administration does not, once again, try to prioritize its immigration policies at a cost to the lives, health and safety of our citizens. Many members of this committee signed a letter to the Appropriations Committee urging continued funding for FEMA's Pre-disaster Mitigation Program. We must continue our efforts to provide sufficient funding and by reauthorizing this program.

Finally, earlier this month, we saw part of a highway collapse in Georgia. This incident reinforces the need to invest in infrastructure that is resilient to disasters, whether natural or man-made. As Congress moves forward on an infrastructure package, we must require any infrastructure constructed with Federal dollars to be resilient and meet the latest building codes. It is necessary to have requirements like these so that we can actually reduce disaster costs and losses without merely shifting costs.

I look forward to today's testimony and further ideas on actions Congress can take to reduce disaster costs and losses.

And I yield back.

Mr. BARLETTA. Thank you, Ranking Member Johnson.

Today, we are joined by the Honorable W. Craig Fugate, who was FEMA's Administrator from 2009 to January 2017. He transformed FEMA into a survivor-centric response organization and drove the delivery of disaster assistance in ways that are more efficient and reduced Federal disaster costs. Administrator Fugate will share his thoughts about what can be done to reduce disaster damages, lower disaster spending, and protect FEMA's capabilities.

The Honorable R. David Paulison was the FEMA Administrator from 2005 until January 2009 and began the restoration of FEMA in the wake of Hurricane Katrina. Administrator Paulison will talk about how we can change the Nation's approach to mitigating disaster damage.

Mr. Andrew Phelps, the director of Oregon's Office of Emergency Management, who joins us to share some of the State's innovative

mitigation practices and how they have leveraged Federal investments to maximize community resiliency.

Chief John Sinclair is the president and chairman of the Board of the International Association of Fire Chiefs. Chief Sinclair is also an active fire chief in the State of Washington. Chief Sinclair will talk about the importance of pre-disaster mitigation and post-disaster mitigation and discuss some initiatives to protect infrastructure from future damage.

And Mr. Mark Berven is the president and chief operating officer of Nationwide's Property and Casualty Operations. Mr. Berven is here on behalf of the BuildStrong Coalition. Mr. Berven can inform us on some of the alarming trends in disaster costs and losses and some of the bold ways they are proposing to curb these costs and losses.

I ask unanimous consent that our witnesses' full statements be included in the record. Without objection, so ordered.

For our witnesses, since your written testimony has been made as a part of the record, the subcommittee would request that you limit your oral testimony to 5 minutes.

Administrator Fugate, you may proceed.

TESTIMONY OF HON. W. CRAIG FUGATE, FORMER ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY; HON. R. DAVID PAULISON, FORMER ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY; ANDREW PHELPS, DIRECTOR, OREGON MILITARY DEPARTMENT, OREGON OFFICE OF EMERGENCY MANAGEMENT; CHIEF JOHN SINCLAIR, PRESIDENT AND CHAIRMAN OF THE BOARD, INTERNATIONAL ASSOCIATION OF FIRE CHIEFS; AND MARK BERVEN, PRESIDENT AND CHIEF OPERATING OFFICER, PROPERTY AND CASUALTY OPERATIONS, NATIONWIDE MUTUAL INSURANCE COMPANY, ON BEHALF OF THE BUILDSTRONG COALITION

Mr. FUGATE. Thank you, Chairman Barletta and Ranking Member Johnson, as well as Chairman Shuster and some of the other folks represented here.

The first thing I want to hit on is something that Chairman Shuster talked about as FEMA's role. FEMA has been a part of the Department of Homeland Security since its formation, and through that time, it has gone up and down as far as its availability to do its job. Congress clarified those roles with the post-Katrina emergency management format, dictating that the FEMA Administrator must have experience in the profession, that they are a person that reports to the President during disasters, and is the principal adviser on these issues to the Homeland Security Council, the President and others.

We don't have a FEMA Administrator. I think that on the response side, the career folks will do an adequate job. They will do good. But without a political person, as this administration continues to move forward, FEMA risks not being part of the policy discussions without the political leadership. So as we approach hurricane season, if I remember correctly, my nomination and confirmation occurred by May 19, before the start of hurricane season. It may be symbolic, but I think the longer we go without the polit-

ical leadership at FEMA, the greater the risk. They are not part of the policy discussions that set the agenda going forward.

The second thing, as you said, Chairman Barletta, is the rising cost of disasters. Let's remind everybody. Do you know what that money pays for? Uninsured losses. Now that is reasonable when you call out the National Guard or you are providing emergency food and sheltering. But I will give you a recent example of one of these large disasters, the recent flooding in the State of Louisiana last fall, just in individual assistance for people who did not have flood insurance, we paid out close to $1 billion in the first 30 days just in individual assistance. It took us about 3 more days to get to that same figure in the State of New Jersey and New York during Hurricane Sandy.

And we are seeing this across the board, that at local and State levels, more and more public buildings are self-insured, which means you are paying for that. We are seeing that for municipal or co-ops or Government-backed utilities, you pay for that as well. But the private sector, you are not. So when we had all the hospitals impacted in New York, the majority of which were eligible entities as nonprofit or Government-based, you spent a lot of money rebuilding uninsured losses. Now, that is the key thing here. It was all uninsured. We don't pay for insured losses. Any investor-owned hospital in the same impact would have gotten no assistance from FEMA, just like any utility that is investor owned gets no assistance from FEMA, the taxpayer. It all goes for uninsured losses.

So my first question is, why aren't we seeing more insurance on State and local buildings? And the answer is our pain point is so low on disaster declarations that many governments make the calculated decision that they can go self-insured on small disasters, but if it is really big, you are going to come in at 75 cents on the dollar. So what we have done is we transferred a lot of risk to the Federal taxpayer, underwriting risk at the local level, and it is an informed decision they are making.

Without good codes and standards, without insurability, those disaster costs are going to continue to climb, and they are climbing faster because the risk is changing. And what we have done as a Nation is set the pain point on risk so low we are not changing behavior. So you are subsidizing development. You are subsidizing decisionmaking about risk. I am not always sure that is done in the best interests of the taxpayer.

So we began looking at disasters. And, Mr. Chairman, you are absolutely right. If we took out all small disasters, it doesn't really change the equation. It is the big ones. But we looked at something that would be an incentive to get more encouragement of good behavior, because States like Oregon and others do a lot of work to buy down risk. Yet, in the calculation of determining a disaster declaration, that is not recognized. While the Stafford Act says you look at a lot of different factors, the reality is the number-one factor to determine a disaster declaration is the per capita cost, with no factor of what States do to buy down risk. So the idea of creating a deductible is just like any insurance policy. I hardly know anybody that has car insurance or health insurance that doesn't have a deductible. You got skin in the game.

By creating a deductible, the idea was we would not go back to the first dollar as we currently do when they hit their thresholds. Now that is not going to save a lot of money in big disaster——

Mr. BARLETTA. Excuse me. Can you pull the microphone a little bit closer? This is important. I would like to hear it.

Mr. FUGATE. The idea of the deductible was we would not go back to the first dollar, as we currently do. If you hit the threshold, and my State of Florida, I know it best, it is about $24 million is the threshold on public assistance. If we hit that threshold, we go back to the first dollar, 75 percent of that, 75 cents on the dollar. The idea of the deductible is we would not go back to that first dollar. We would start probably around what their threshold is, so anything over $24 million, you would do the cost share, but below that, the State would have the full amount.

Now States will rightfully tell you—and this is their position—that we are transferring it back to the States. I am like, well, under the Constitution, it was yours in the first place. It is up to the discretion of the President to even declare a disaster. So let's get past that we are transferring risk back. It is actually the responsibility of State and local governments to do this. The Federal Government is there when it exceeds their capabilities. So that is what the law says, exceeds their capabilities.

So other than the proposed deductible, what we want to do is give credits to States like Oregon. So whatever their deductible is, because they do so much work in mitigation and we say we get a $4 savings for every dollar invested. If they are investing a State dollar in mitigation, they ought to buy down $4 of their deductible. And the idea would be you got strong codes and land use, you do things to buy down risk, it lowers your deductible. You could probably get to zero.

Now, as the chairman points out on small disasters, that won't save money; but over time, it will start changing and incentivizing States that are taking steps to buy down the risk, and we will see that trend. If you go to FEMA.gov and you look at disasters by States, you will find some of the States with the most frequent disasters are also proud of the fact they have hardly any redtape or barriers to building and constructing in high-risk areas. Why? Because you, the taxpayer, are underwriting that risk, and every dollar you spend on that is uninsured.

So this last piece of that is we have got to tighten up the insurance requirements. You build it back, you carry insurance. We should not be rebuilding buildings, three, four, five times as we have seen, and you are paying again because they weren't carrying insurance.

So this is a way to move forward, Mr. Chairman. It addresses your issues. There will be pain. There will be change. But we have to remember, we got a built infrastructure that we got to figure out how to take care of, improve, and people's lives are at stake. And we should not single out individuals for punitive "we're not helping." The State and local governments need to have better incentives to change their behavior, or those disaster costs will continue to climb. Thank you.

Mr. BARLETTA. Thank you for your testimony. Administrator Paulison, you may proceed.

Mr. PAULISON. Chairman Barletta, Ranking Member Johnson, and distinguished members of the committee, I would like to thank you for holding what I consider a very important meeting today. We are going to be talking about building the 21st-century infrastructure in America. Specifically, I want to address how we can mitigate damage, recover quickly from disasters. And I am very grateful for the leadership of the chairman and the ranking member and the members of this committee, and I am willing to assist any way that I can.

In no uncertain terms, I want to impress on the committee today that we have a moment, we have a moment right now, to make America resilient again and save both lives and taxpayer dollars. In my 35 years' experience dealing with natural disasters at the Federal, State, and local level, including my service as FEMA Administrator, as you pointed out, I can tell you, our Federal policy regarding disaster does not nearly do enough to prevent infrastructure failure before the disaster strikes.

My position is largely influenced by experiencing firsthand the aftermath of multiple catastrophic events. I have seen homes and businesses destroyed because they were never built to withstand a natural disaster that would inevitably come, or, in some cases, because building codes that would have fortified these structures simply were not enforced. This has become a reality of our Nation's current disaster policy. A disaster strikes; homes are destroyed; we spend billions to rebuild. And when the next disaster strikes, the homes fail again. This method wastes billions, and even worse, lives that are unnecessarily lost.

To break the existing cycle of destruction and recovery, the U.S. must adopt a proactive system that focuses on protecting the Nation from the rise in frequency of major disasters. So I am going to give you four game-changing ideas that I believe will make America resilient again and save billions of dollars, and, perhaps, countless lives.

First, we must get serious about States to ensure improved mitigation plans and adopt and enforce statewide building codes. The fact is that the Federal Government continues to have massive fiscal exposure in high-risk areas, in part because States are either not adopting appropriate building codes or they are not enforcing the codes. That is why we should tie Federal money for disaster assistance directly to the decisions by the States in preparing for disasters.

Today, the Federal minimum cost share following a natural disaster, as was pointed out, is 75 percent. The committee should look at rewarding States that improve resiliency by increasing their cost share to maybe 80 percent. Conversely, the committee should lower the Federal cost share to, let's say, 60 percent, for States that fail to approve, adopt, or enforce mitigation plans or building codes. This action will force States to work with fewer Federal dollars if they continue to shirk their responsibilities on the State and local levels in order to ensure the homes are built to code.

Secondly, the FEMA Pre-disaster Mitigation Programs are incredibly small compared to the massive amount of post-disaster money that flows to Congress. Post-disaster spending swamps pre-disaster mitigation spending at a ratio of 1 to 14. That must

change if we are going to reduce the cost of disasters in money and lives. We should use a dedicated portion of the total annual money spent in the Disaster Relief Fund and allocate it towards a new Hazard Mitigation Grant Program. This new program would be funded with existing DRF funds, not a new appropriation, and would force the Federal Government to fund nationwide mitigation programs. A national Hazard Mitigation Program could operate like the Hazard Mitigation Grant Program, except funds would be available nationwide without regard to whether a disaster has occurred.

Third, the Federal Government should do everything possible to encourage resilient building codes, especially in areas where disaster has already occurred. Right now we do very little. If a State has not fortified correctly, we should try to take some positive out of the event occurring by making sure the State has the opportunity to fix its oversight. Funding should be available as essential assistance for development and enactment of statewide building codes for 2 years after the disaster strikes. These funds would be used to defray costs associated with the development and enforcement of statewide building codes, and it would accelerate recovery also.

And, fourthly, the Federal Government currently has a reactive response to disasters. This caused a large flow of money to come to many different agencies in a short window, resulting in a lack of accountability to the taxpayer. We can actually reduce disaster spending by consolidating ad hoc Federal disaster assistance programs under FEMA. FEMA, in consultation with other agencies, would publish a list of programs that would be transferred to and administered by FEMA. I suggest we also require FEMA-administrated projects to meet cost-benefit standards, be directly related to disaster damages, and be coordinated with other disaster-mitigation measures.

My 35 years in working in emergency preparedness tells me that we simply are not doing enough. There is no excuse not to demand the States enforce building codes when it is the Federal taxpayer who must foot the bill. Federal policymakers must stop this terrible deal for the taxpayer and help make America resilient. These measures will save lives and save taxpayer dollars. They will force States that are not achieving a level of efficiency in their structures to either improve or lose access to millions of dollars in disaster relief. And I encourage the committee to take this opportunity to act.

I want to thank you. I look forward to continuing to work with this committee on this, what I consider a very important issue. Thank you, Mr. Chairman.

Mr. BARLETTA. Thank you for your testimony, Administrator Paulison. Mr. Phelps, you may proceed.

Mr. PHELPS. Thank you, Chairman Barletta, Ranking Member Johnson, and members of the subcommittee, for holding this hearing today. As stated, my name is Andrew Phelps, and I am the director of the Oregon Military Department's Office of Emergency Management, and I am pleased to be here to bring a State perspective to this important discussion of hazard mitigation.

I was working as an actor in New York City when I found myself on the roof of my East Village apartment in Manhattan a few min-

utes before 9 o'clock in the morning on September 11, 2001, watching one of the World Trade Center towers burn. Moments later, an airplane appeared on the horizon, flew towards Manhattan, disappeared behind the second tower, and emerged from the other side in a ball of flame. Until that time, I hadn't even taken so much as a first aid class.

That moment changed me as it changed so many others in so many different ways. I never wanted to experience something like that again, and began working towards a career aimed at preventing the impacts of disasters. Over the past 15 years, I have come to accept that we cannot eliminate every hazard, but what compels me to do the work that I and my colleagues in the great State of Oregon do every day is the belief that the role of an emergency manager is to prevent hazards from becoming disasters.

Through collaborative partnerships among community groups, nonprofits, the private sector, cities, counties, Tribal, State, and Federal Government, we have spent millions of dollars in Oregon in often innovative mitigation projects that have, in turn, saved tens of millions of dollars in disaster damages and an incalculable number of lives. It is my hope that all the testimony shared today will help illuminate the side of emergency management that seldom makes headlines, because it is just not exciting to talk about what did not happen in the disaster that was prevented.

Oregon has a long history of leveraging Federal mitigation funds, regardless of the program or hazard, to reduce the negative consequences of when the water flows, when the ground moves, or the wind blows. A prime example of the importance of mitigation in Oregon comes from the 2007 flood that ravaged the city of Vernonia outside of Portland. Oregon leveraged $23 million in Federal mitigation funds, an addition of millions of local and State dollars to reduce that community's ongoing flood risk.

In December 2015, the Portland metro area saw historic rains in a storm similar to the 2007 event, but little damage occurred in Vernonia, which the city administrator attributed, in large part, to the mitigation efforts of the previous 8 years.

As this subcommittee examines the Federal mitigation grant programs, I encourage you to look at those areas where more work is needed, like the catastrophic wildfires that have become commonplace in the Western United States, and are becoming more prevalent in other parts of the country.

In 2015, FEMA announced a pilot project to provide Hazard Mitigation Grant Program funds for wildfires receiving Fire Management Assistance Grant declarations. Oregon received around $2.5 million through that program due to the particularly bad wildfire season we had experienced.

A similar program was not funded in 2016, yet I remain hopeful we can learn from the 2015 pilot to address this critical gap and fund wildfire-specific mitigation.

Another area in desperate need for resources is earthquake mitigation. Oregon, like many States, is accustomed to the moderate quake. However, Oregon, California, and my friends in Washington face an entirely different threat.

Given my impetus for pursuing what has become my passion, emergency management, I make it a point to regularly review the

"9/11 Commission Report." And one chapter always jumps out at me, chapter 8: "The System Was Blinking Red." That chapter discusses the many warning signs before those attacks that were unable to be capitalized upon to stop that threat. In Oregon, in the Pacific Northwest, the threat of Cascadia is blinking red. The Cascadia Subduction Zone Fault runs from northern California to British Columbia, Canada, and has a well-documented history of generating 9.0 magnitude quakes, resulting in up to 5 minutes of strenuous, intense shaking, followed almost immediately by tsunami waves reaching 50 feet in height or higher.

Oregon has effectively used Federal dollars towards education, outreach, and research programs, and tens of millions of dollars in State and local funds to mitigate this threat through initiatives like the Oregon Seismic Rehabilitation Grant Program. But more work and help is needed. A Cascadia event highlights the urgency for strong, collaborative engagement across public bodies, and with nongovernmental partners. For example, Oregon and the city of Portland received over half a million dollars in Federal Pre-disaster Mitigation Grant funds for a public-private partnership to seismically retrofit homes owned by predominantly low-income earners. The Federal dollars were effectively doubled when homeowners put up half the cost for retrofits that secured their homes' frames to their foundations.

Now, be it tornadoes, hurricanes, floods, earthquakes, or fires, Government cannot engineer their way out of hazards. However, we can armor up our infrastructure, take personal actions to prepare and provide our citizens with the tools they need to educate themselves about the threat and be alerted when one is imminent.

Thank you all for the opportunity to be here today and speak.

Mr. BARLETTA. Thank you for your testimony, Mr. Phelps. Chief Sinclair, you may proceed.

Chief SINCLAIR. Good morning, Chairman Barletta, Ranking Member Johnson, and members of the committee. My name is John Sinclair, and I am the fire chief and emergency manager of the Kittitas Valley Fire and Rescue Department in Ellensburg, Washington. I am also the president and chairman of the Board of the International Association of Fire Chiefs.

The IAFC represents approximately 12,000 leaders of the Nation's fire, rescue, and emergency services. Thank you for the opportunity to testify today about the importance of mitigating damage and recovering quickly from disasters. Every disaster starts at a local level. The local fire department usually is the first agency to respond on scene during an incident, and the last to leave. It is an all-hazards response force that must be prepared for a variety of missions. From the national response perspective, there are no national or State fire departments. When a disaster or national emergency strikes, the Nation relies on local fire departments to provide service to the stricken communities.

The IAFC is concerned by the increasing number of disasters in the United States. Between 1960 and 1969, the average number of disaster declarations was approximately 19 per year. Between 2010 and 2014, this number skyrocketed to 67 per year, with a record 99 major disaster declarations in 2011. In addition, the cost of these disasters is increasing. Between 2009 and 2012, the average

annual cost of Federal wild land fire suppression operations was $1.25 billion. For the following 4 years, the average annual cost increased by 32 percent to $1.84 billion.

The Nation must develop a comprehensive strategy for addressing this problem. The strategy must highlight the importance of investing in pre-disaster mitigation, ensuring an effective emergency response, and authorizing critical post-disaster mitigation.

Mitigation is a vital component to any comprehensive strategy. As Ben Franklin said: An ounce of prevention is worth a pound of cure.

The IAFC recommends that States adopt model residential and commercial building and fire codes. These codes are developed using a consensus-driven process. All interested stakeholders are included with the intent to construct safer buildings. Scientific research has clearly demonstrated that the adoption of building codes saves lives and reduces property damage.

The IAFC also recommends the adoption of community preparedness programs. The IAFC's Ready, Set, Go! Program is a cooperative program with the U.S. Forest Service. Through community outreach and education, it helps communities mitigate the risk of wild land fires. The program educates individuals to plan ahead in order to evacuate in the case of a major fire. These preparations for wild land fires through the Ready, Set, Go! Program helps communities prepare for other hazards as well.

An effective emergency response is another key to reducing the damage from a disaster or emergency. For example, the sooner a wild land fire is extinguished, the less damage it can do. Experienced leadership is significant for an effective response. The IAFC recommends that the administration appoint experienced leaders to be the FEMA Administrator, the U.S. Fire Administrator, and other leadership positions within FEMA.

The IAFC also asks Congress to ensure the continued development of future fire and EMS leaders by reauthorizing the U.S. Fire Administration. The USFA's National Fire Academy is the premier fire and EMS and leadership institute. It provides leadership training and education for the next generation of emergency managers.

Local fire and EMS departments are part of the backbone of the National Preparedness System. As such, the IAFC asks Congress to reauthorize the FIRE and SAFER [Staffing for Adequate Fire and Emergency Response] grant programs. These merit-based matching grants help local fire departments meet their staffing, equipment, and training needs. A fire department must have effective day-to-day operations to be able to provide assistance in national disasters.

We also ask that Congress continue to support the State Homeland Security and UASI [Urban Area Security Initiative] grant programs. These programs incentivize Federal, State, and local law enforcement, fire, EMS, emergency management, and public health, the whole community, to plan and train together. This planning and training is crucial for an effective all-hazard response.

We also want to thank the committee for its support of the USAR system, which is an effective Federal-local partnership.

The IAFC also thanks the committee for its focus on post-disaster mitigation. Effective post-disaster mitigation can prevent future disasters.

For this reason, we support H.R. 1183, the Wildfire Prevention Act. This legislation allows jurisdictions that receive FMAG grants to receive hazard mitigation assistance as well.

I want to thank the committee for the opportunity to discuss the need to address the rising number and cost of disasters. By focusing on pre- and post-disaster mitigation, community preparedness, and effective emergency response, we can begin to address this problem in a comprehensive fashion. This work will require cooperation at the Federal, State, and local levels. Learning from the tragedies of 9/11 and Hurricane Katrina, the Federal Government has made strategic investments to improve the Nation's capability to prepare and respond to all hazards. We recommend that Congress continue to support these efforts to keep America safe.

Thank you very much.

Mr. BARLETTA. Thank you for your testimony, Chief Sinclair.

Mr. Berven, you may proceed.

Mr. BERVEN. Chairman Barletta, Ranking Member Johnson, and members of the subcommittee, thank you for inviting me to testify today.

My name is Mark Berven. I am the president and chief operating officer of the Nationwide Mutual Insurance Company. Over the past 91 years, Nationwide has grown from a small mutual auto insurer owned by our members to one of the largest insurance and financial service companies in the world. We offer our members a full range of insurance products and financial services, and are the Nation's leading insurer of small businesses, farms, and among the leaders in auto and property insurance.

Nationwide has been a member of the National Association of Mutual Insurance Companies since our inception, and I currently serve on the board of directors. Both NAMIC and Nationwide are founding and executive committee members of the BuildStrong Coalition, on whose behalf I am testifying today. The BuildStrong Coalition was created in 2011, and is committed to building the Nation's homes and businesses more resiliently. The coalition salutes you, Chairman Barletta, for seeking ways to reduce Federal disaster losses. We share your serious concern surrounding the Federal Government's current approach to pre-disaster mitigation, which has failed to provide communities and individuals across the Nation with the tools they need to prepare for the next storm.

Natural catastrophes are increasing in frequency and severity at an alarming rate, as we have discussed. Between 1976 and 1995, there were an average of 39 Federal disaster declarations per year. This number skyrocketed to an average of 121 between 1996 and 2015. During that time, we saw the country hit by Hurricane Katrina and Superstorm Sandy. And just last year, the U.S. experienced the second highest number of billion-dollar weather events ever recorded, including devastating flooding in Louisiana and in the Southeast following Hurricane Matthew. Research has shown time and again that pre-disaster mitigation is our best line of defense in a time where we face more severe catastrophes.

Through the groundbreaking research of the Insurance Institute for Business and Home Safety, we know that the IBHS FORTIFIED Home program is proven to help strengthen homes from hurricanes, wildfire, high winds, and hail. By simulating real-world disaster conditions at their state-of-the-art facility, the IBHS has proven that even small things—the way in which a door swings, the size of a roofing nail—can have a major impact in surviving a natural catastrophe.

But despite knowing the power of resilient building and pre-disaster mitigation, the Federal Government continues to take a reactive posture, waiting for a disaster to strike. From 2004 to 2013, FEMA spent a massive 89 times more on post-disaster assistance than pre-disaster mitigation. Certainly, victims should get the help they need to get back on their feet in the aftermath of a disaster, but the fact that we invest such a small amount to prepare communities for severe disasters is further evidence that we need a wholesale change in FEMA's approach.

Now is the time to focus on protecting our homes, businesses, and communities. And since we know the most effective way to shield lives and property during a disaster is resilient construction, the BuildStrong Coalition is calling on President Trump and Congress to take a multipronged approach to strengthening how we build in this country.

First, we are seeking a critical reform designed to encourage States to exit the cycle of destruction. This can be accomplished by creating a powerful incentive of additional post-disaster funding for States that adopt and enforce strong building codes.

Second, we should shift some of the Federal resources from reactive post-disaster spending to proactive mitigation investments in our communities. One of the most effective ways we can make this shift is by creating a new national Hazard Mitigation Grant Program. This new program could be funded with 10 percent of the amount already allocated to the existing Post-Disaster Hazard Mitigation Grant Program and could be used by communities to protect homes, businesses and to mitigate risks before disaster strikes. At Nationwide, part of our commitment to our members is to help them prevent losses. When our members are victims of natural disasters, we see the tragic impact, the loss of loved ones, the emotional distress of seeing everything that someone owns gone in a minute, and the loss of a sense of security. It doesn't have to be this way, and it shouldn't be this way.

As Congress and the President work together to improve our Nation's infrastructure, we urge you to adopt a national strategy for investing in pre-disaster mitigation that will save lives, property, and billions in taxpayer dollars.

Thank you again for the opportunity to present at today's hearing and for this important work.

Mr. BARLETTA. Thank you for your testimony. I will now begin the first round of questions limited to 5 minutes for each Member. If there are any additional questions following the first round, we will have additional rounds of questions as needed.

Mr. Berven, as I mentioned in my opening statement, the data is clear. A small number of very large disasters make up almost

all disaster spending. What is it about these disasters that costs so much, and what, if anything, could reduce those costs?

Mr. BERVEN. It is a great question, and you are absolutely correct. You know, as we look at what's driving some of the factors of the cost of the losses today, we see a lot of things coming together. First, it is a product of a successful society. You know, Americans are building bigger homes, larger commercial structures. Residential development in high-risk coastal areas has skyrocketed. For instance, today the U.S. has over $10 trillion worth of property in coastal high-risk areas. It is easy to see that historically as we would look at a storm that would come in; that same storm today would cost significantly more because of the infrastructure that is in existence within these locations of high risk.

So a number of things contribute. In addition, I think the comments that were made earlier about what academics would call the moral hazard that we have, essentially when people and businesses figure out that uninsured properties at the time of a post-disaster will receive recovery from the Federal Government, it lowers the incentive of insurance and other ways that we could save dollars that the Federal Government would not need to spend. Mitigation strategies, as we discussed, research at the IBHS, with scientific information that easily can improve the sustainability of homes and properties is a critical element to improve that.

Mr. BARLETTA. Thank you. Administrator Paulison, the key to reducing disaster costs seems to be reducing damage. When physical damage is high, large numbers of people are displaced. The local economy is crushed, and reconstruction costs soar. What do you think are the appropriate roles of the Federal Government, the State and local governments, with respect to reducing disaster damages?

Mr. PAULISON. That is another good question. I firmly believe that in statewide building codes, that we have to put model codes out there that are going to build our homes and our businesses based on the disasters that are going to be there. We did that very clearly after Hurricane Andrew in south Florida and through our State, where we changed what we saw what the damage was, homes that failed that should not have failed, and we changed our building codes to mitigate that. And now we get some of these same storms come through, and they are not going to fail. So I think that is the State's responsibility to have those codes and enforce the codes.

It is the Federal Government's responsibility to hold the States accountable. I talked about the carrot-and-stick method. I think that is very important. You have to have a strong carrot and a strong stick. If you do this, we are going to help you. If you don't do this, you are going to be on your own for part of that. So I think those are the issues we have to look at. Make sure the codes are there, the codes are enforced, we have mitigation plans in place, and the Federal Government has to be the parent in this particular issue.

Mr. BARLETTA. Administrator Fugate, you proposed the disaster deductible as a means to encourage States to take steps to lower disaster costs over time and improve their own emergency management capabilities. And Administrator Paulison, you proposed that

adjusting Federal disaster cost shares in order to accomplish a similar purpose. Could both of you explain why you believe these proposals are important and how they would work?

Mr. FUGATE. Mr. Chairman, I will start with the deductible. What I have found is the political reality is if we come in with too heavy of a stick in the aftermath of a disaster, there is not the political will to hold fast. You want to help people. A deductible is a lower threshold, less painful, because in many cases, their deductible they would have been paying for if they hadn't reached those thresholds to get declared. So it is not such an egregious amount that it makes it difficult to recover, but it is surprising that those dollar figures will get the attention of State legislatures because they run balanced budgets, and suddenly coming up with tens of millions of dollars in a disaster that didn't reach that threshold, or they had a deductible, is a forcing mechanism that I think is politically sustainable.

So, I am always a realist. There are the absolute things we should be doing, and then after a disaster, there is the political reality that we as a Nation are going to help our neighbors. We are not going to let survivors suffer because of decisions State and local governments did or didn't make.

So I always look at it from the standpoint if you set the price too high, the political pain, it is hard to enforce that after a big disaster. That is why I look at a deductible more along things that people are used to that you can budget for and understand. And I think that would be a way to do it. Director Paulison's idea about adjusting cost share, that would be another tool, but I would also remind you, anything under 75 percent would require legislative action. That is set in law by the Stafford Act.

Mr. PAULISON. Administrator Fugate, it is correct, it does require a legislative action, but that is what you do. So you have to be able to reward the States and give them an incentive to put the mitigation plans in place, to put statewide building codes in place. If we don't do that, we are going to end up, even if we have a deductible, I think we are going to end up with States not doing what they should be doing. And I think if we do the reward, make it 80 percent if you are doing the right thing, and make it 60 percent if you are not doing the right thing, and that will encourage States to put those things in place because they are not that expensive for a State to do that.

Mr. BARLETTA. Thank you. The Chair now recognizes Ranking Member Johnson for 5 minutes.

Mr. JOHNSON OF GEORGIA. Thank you, Mr. Chairman. Mr. Fugate, the State of Georgia has submitted comments on FEMA's proposed disaster deductible, arguing that it creates additional administrative burdens on State government. As a proponent of the disaster deductible, can you shed light on whether or not there is an undue burden placed on State governments?

Mr. FUGATE. Well, if I am State government, any time the Federal Government wants me to do something different, I always say it is an unfunded or unfunded mandate or burden. I think we have got to be realistic here. It will require us working together, and there would be additional processes built into it. It is going to be

hard just to say an absolute deductible if we are also trying to give States credit for the things they are doing to buy down that risk.

Knowing how things work up here, I could very easily become a bureaucratic burden. But I also think that if we work together, we can get to a better answer working as a team. But just saying it is going to cause more problems or more regulations is another way of saying we just don't want to do it. As I have told the States, I said you may not like my idea, but you better have an alternative because the next time this Congress has to face a $60 billion supplemental, things may change that they did not participate in. And so my response is, work with FEMA on that to build a system that works. If you don't like the answer, come up with another solution, and just don't say we don't like what you are doing because, again, I think that the cost of disasters needs to be addressed, and States need to be a part of that conversation.

Mr. JOHNSON OF GEORGIA. Thank you. Anyone else have a comment they would like to make on that issue? All right. Mr. Fugate, you discussed the statutorily defined qualifications and experience that the FEMA Administrator is required to meet. The International Association of Fire Chiefs has proposed that the Deputy Administrator and Assistant Administrators meet similar requirements. Do you have any thoughts on that?

Mr. FUGATE. Again, it would be something I could support. I think it would be, if you look at the post-Katrina emergency management format, it is in there for the Administrator and for the regional Administrators. And since we have moved a lot of our regional Administrators to career positions, there are fewer political positions left. But I think if you built that in in many cases, you look at the Deputies, the Chief Operating Officer, again, you want people to have experience. But you also want people—I always caution people. It is real easy to say you got to do this to the administration, but it is also important that the administration has their people in there, because if they don't go to those people, don't trust those people, they will bypass FEMA. So it is important to have the qualifications but not be so prescriptive that we take away any administration's responsibility to pick their team and the people that they are going to go to in a crisis.

Mr. JOHNSON OF GEORGIA. Thank you. Mr. Paulison, under your reduced cost-share proposal, how many States do you estimate would have higher cost shares, and how many States would have lower cost shares?

Mr. PAULISON. I don't have that figure. I do know that there are only 16 States that have enforceable statewide building codes. We have pockets of building codes in some of the major cities. But as far as statewide building codes, I believe the number is right around 16, so there is a lot of work to do. But I do agree with Mr. Fugate, it is things we have to work together on of how do we get from A to B to make sure everybody is on the same page? And I think we can do that. But if we don't do something to incentivize States or to punish States who do not do this, we are going right back to where we were. Time after time, we rebuild homes, and the next time a storm comes along, whether it is an earthquake or flood or winds, they blow down again, they are destroyed again. And we can't continue doing that. It is simply not sustainable as

far as fiscally the way we are doing things. We have to stop and take a deep breath. What can we do to fix this? That is one recommendation I put on the table that we need to really look at.

Mr. JOHNSON OF GEORGIA. Thank you, Mr. Chairman. I yield back.

Mr. BARLETTA. Thank you.

The Chair now recognizes Mr. Smucker for 5 minutes.

Mr. SMUCKER. Thank you, Mr. Chairman.

Mr. Fugate, if I understand your testimony correctly, you believe that we have not achieved the proper balance of risk share which drives behaviors so States and other impacted jurisdictions are not providing proper mitigation and, in fact, you said are not even insured in some cases. So I wanted to understand that a little more. Who is it that is not insured for loss?

r. FUGATE. State and local governments. And that is the bulk of what you are paying out. Individual assistance, you are basically paying out for people who don't have flood insurance and some people that are underinsured or not covered. But the bulk of your public assistance dollars, you are picking up debris; you are fixing roads and stuff. I don't think I would really focus on insuring that. But in the city of New York, of the nine hospitals on hospital roads, eight of those got billions of dollars of taxpayers' money to pay for imaging equipment, damages, and other losses that they did not have insurance on.

Mr. SMUCKER. So what you are saying is insurance is currently available for State and local governments to cover their loss——

Mr. FUGATE. Yes, sir. [Inaudible] private sector.

Mr. SMUCKER. But they are choosing not to insure because they believe the Federal Government will come in?

Mr. FUGATE. What they do, in many cases, is they do is what they call self-insurance. But it is not really self-insurance. It is not actuarially based. They will cover their reoccurring and routine losses and exposures, but then they will state that either insurance wasn't available or not affordable.

Mr. SMUCKER. Do we have statistics—I am sorry I am rushing you a little bit. But do we have statistics regarding State and local insurance—or jurisdiction—how many are insured and how many are not?

Mr. FUGATE. What we tend to find is discovery learning. We learn about it after they get hit, and then they come forward with their claims. Sometimes those decisions are made recently. Others are longstanding practices. And I have had the situation in some States, for example, school districts, one school district is fully insured; the school district next to it is self-insured. We are paying for that.

I was in Arkansas—and it is kind of bad when it is in your term it happens. It got—a school got destroyed in 2010 Arkansas. It wasn't insured; it was self-insured. We paid for the entire replacement of that school, 75 percent. In 2014, it got hit by another tornado, flattened again. The only reason why the taxpayer didn't pay for it: the construction company hadn't turned it over to the school district, and it was still under their insurance. But if that school had been built 30 days earlier, you would have paid for that school twice.

Mr. SMUCKER. Thank you. I am going to change directions.

Mr. Paulison and Mr. Berven, you had both referenced statewide building codes. I have a background in construction and also, in the State Senate in Pennsylvania, did considerable work on the statewide building code there. And I fully understand the need to implement standards that mitigate risk.

There is another side to it, and I would just like to get your perspective. And that is each of those standards can add cost to construction. And speaking for PA–16, my area, one of our major problems is affordable housing. And so if we add too much cost to construction, we literally impact the quality of life for individuals because they may not afford the home. And so, obviously, at some point, it is inefficient. And so I guess I would just like to—while I support a strong building code, I would like to get your perspective on achieving that balance.

Mr. PAULISON. I will take the first crack.

First, I have got a background in construction also. I was a State-licensed general contractor. And it does add a cost to building a home. But it is not significant enough to put it out of the price range of people buying the homes. Sometimes it is as simple as how many nails you put in a roof. So there is minimal cost there. And we change our building codes to: You can't use pressboard on a roof. You got to use plywood. It has got to be five-eighths, you know, 3 inches on the seam, 6 inches in the field, and ring shank nails. So it is a couple hundred bucks for the roof. And that—and we find that now that roof doesn't come off. Making sure how you fasten the windows in: instead of into the wood buck, it goes into the concrete. You know, we build CBS down there. And it is things like that. It doesn't add a big cost but protects the envelope of the home so it doesn't—you know, the—the doors coming into that have to swing out in south Florida, because we found, in Hurricane Andrew, the doors that swung in blew in, and then, once you get wind in the house, the roof comes off from the inside out. So there is no cost to that.

Mr. SMUCKER. Right.

Mr. PAULISON. It is just which way you swing the door.

So the builders will tell you, yes, it runs the cost up. And the truth is it does not run the cost up that much, and then you don't have to rebuild a home twice, like Mr. Fugate said.

Mr. SMUCKER. I wonder if Mr. Berven could answer that as well.

Mr. BERVEN. You bet. And I thought it was a great response. You know, it is a very important issue of this. I think one of the things at the BuildStrong Coalition that we have looked at, one of the four elements that we really see as being core of what we are doing here is creating a Federal incentive for extra post-disaster funding that could be utilized for pre-disaster mitigation to address and could be administered appropriately to make sure that the proper funding goes to alleviate some of those affordability concerns.

I think that there are also things that, while not in the construction trade, from the insurance trade, from the private sector piece, that the incentive to continue to find ways to assist in the affordability and incentivize through insurance transactions also exists. Nationwide is trying some of that today because, again, of the Mutual heritage, investing for the longer term, we believe that there

is an opportunity to continue through a private piece to provide incentive on the insurance transaction, both from potentially the construction, the contractor side, as well as the individual homeowner, that there is kind of that joint opportunity, both through the incentive, in post-disaster, shifting that funding, as well as private solution.

Mr. SMUCKER. Mr. Chairman, do I have time for another question? Or are we moving on?

Mr. BARLETTA. We are going to have another round.

Mr. SMUCKER. OK. Thank you very much.

Mr. BARLETTA. Sure.

The Chair recognizes Ms. Norton for 5 minutes.

Ms. NORTON. Thank you, Mr. Chairman. And I appreciate this hearing particularly at this time.

Pre-disaster mitigation has been a bipartisan favorite of this committee. And yet we have never been able to convince any administration to—on the 3-to-1 savings because that is not how the appropriation process works, and we tend to matters after the fact, which is, of course, the most costly way to treat them.

As far as I am concerned, there is an elephant in this hearing room.

I am interested in unanticipated disasters, which we are increasingly seeing around the country and around the world. I think the chairman quoted statistics from the CRS: 25 percent or so of the disasters account for 92 percent of the cost. One wonders how long those figures will remain where they are. For example, there are unheard of disasters in places unseen before. And the intensity of disasters has shocked the Nation.

I mean, who would have expected Hurricane Sandy to take out whole sections of New York City and New Jersey in the way it did? We are seeing climate disasters of the kind that were never had in that particular region before.

In North America, we see five times the weather-related events over the prior three decades. I don't think any weatherman told us all of these things were coming down the road.

So I don't care where people are on climate change. The science is pretty clear on that. I am concerned with whether we are prepared to deal with increasingly unanticipated and intense climate events.

Now, Chief Sinclair, for example, says in his testimony, comments on the increasing number of disasters—increasing number of disasters—in the United States and quotes from the 9 years: from 1960 to 1969, there were 19 per year; escalated to 67 per year from 2010 to 2014. Something is happening.

He also speaks in his testimony—I am looking at page 2—about the intensity and costs. And so, when I refer to Sinclair, for example, it was the intensity that drove these matters.

So I need to know whether this panel believes that the country is ready for unanticipated disasters of far greater intensity than we have ever seen before.

Mr. Fugate, I would like to go down the line. Are you ready for that? All this talk about pre-disaster mitigation, that is based on the disasters we have seen. I am now talking about the disasters we are seeing. So could I have your response to the new—the in-

tensity and the new disasters in places that they have not been seen before.

Mr. FUGATE. Yes, ma'am. Climate change is real. I am going to tell you how real it is. Insurance companies generally don't get into debates about public policy like that. But there is a recent article in the Bloomberg that Travelers Insurance is now tracking tornado impacts in their tornado seasons, and they are seeing a climatic signal in their losses that is not sustainable. When insurance companies start telling you that the weather is changing more than they can compensate for and what their rates are, they are going to do one of two things: they are either going to increase their rates to become more affordable, shifting that to the taxpayer, or they are going to stop writing policies, shift it to the taxpayer.

You have to build back not by past data. It is not good enough. It doesn't tell us what is about to happen. And we really need to drive this conversation by what is insurable. And a simple answer may be, if the private sector doesn't think it is a good bet over 20 to 30 years and won't insure it at affordable rates, maybe we are not building in the right place the right way. But our past history of weather data is too insignificant to continue to use only that to determine what we should be building to. And time and time again, when we have used that data, right after it, another event occurs and takes it out again, and they didn't have insurance.

Ms. NORTON. Thank you.

Mr. Paulison?

Mr. PAULISON. I think, regardless of whether a climate change believer or not, it is building our homes, building our businesses, our public structures to withstand whatever type of disaster is going to be in that area. If you are in California, you build to earthquakes or you build to wildfires. You have a sustainable space around your house. You can't have a wood-shingle roof anymore.

In south Florida, we build our homes to withstand hurricanes. We know we are going to get 150-mile-an-hour winds. So we design our homes to deal with that. So I think if we start looking at that part of it, being very pragmatic, and saying, OK, we need to—instead of our home being blown down every time, why did it blow down? You know, or why did it flood? Or why did it catch on fire from a wildfire? And let's build our homes to withstand these types of things. So, regardless of how many come along or how intense they get, every time we have damage, let's step back and say, OK, why did it have damage, and what can we do to mitigate that?

I think that is the approach we need to take.

Ms. NORTON. Mr. Phelps?

Mr. PHELPS. Thank you, Congresswoman Norton, for the question.

Speaking from Oregon's perspective, certainly we have seen increases in all types of weather, and catastrophic wildfire has been a particularly big issue for us. We in emergency management often find ourselves in the business of consequence management. I am not quite as concerned—or have less control over why the wildfires are starting so frequently and burning so hot and in such large areas as how we can prevent those fires from burning, quickly extinguish them, and, probably most importantly, prevent the loss of lives and property in those fires.

So Oregon's perspective, we take an all-hazards approach to how we prepare and mitigate against disasters. We have got rugged coastline, agricultural valleys, alpine mountains, and high desert. It is a big task to look at that hazard profile and try to find an effective statewide mitigation strategy to do so. But the work that we are doing with the State and, probably more importantly, the work of our counties and Tribal governments in their areas is more valuable at buying down some of that risk.

Ms. NORTON. With your indulgence, Mr. Chairman, can I get the next two, their responses to this one question I asked?

Mr. Sinclair.

Chief SINCLAIR. Thank you very much for the question.

We currently have a 40,000-acre fire burning today in Arizona. The Okefenokee Swamp is in the process of burning. Wild land season used to be about an 85-day. It is now 365 days. When you take a look at the past 20 years, it has typically been in the Intermountain West where the major fire problems have been. The scientists tell us that that the fire problem is going to go across the hardwoods of the Plains States, up in the Great Lakes region, all the way into the mid-Atlantic and into the New England States. Last year, we saw disastrous fires occur in Tennessee and Georgia at a time when we wouldn't have done that.

The answer to your question is, are we ready? It depends on the community. One of the things that we are looking at is that, in the Intermountain West, we are educating the communities as it relates to defensible space, fire-adaptive communities, the Ready, Set, Go! Program.

If there is anything that CNN, MSNBC, will teach us, it is that every community across this great land needs to be prepared for the wild land problem.

And so are we there yet? No.

That is the reason why we need the codes. It is the reason why we need to have a very open dialogue about where we are building buildings and what we can do to make them fire resistant. It is also vital that—because every one of those buildings is going to have people in it and making sure the people are prepared to—for all types of hazards. Whether or not it is a wild land fire, whether it is a tornado, whether or not it is an earthquake, we need to make sure that we have got resilient communities.

Ms. NORTON. Thank you, Mr. Sinclair.

Especially from the insurer, I would like to get a final response.

Mr. BERVEN. Thank you very much. It is a great question.

And we spend our time, from the insurance sector, trying to expect the unexpected and build for that. And I think in the testimony that I provided, as we talked about, the scientific research at the Insurance Institute for Business and Home Safety, the one thing that we know is that the unexpected is going to continue, and it is going to continue to rise, as we talked about, the frequency and severity. So the core for us is about investing in scientific research about what we can do to mitigate the unexpected losses that are coming.

Many folks have seen the Insurance Institute for Highway Safety where cars are crashed and think about the decades that that work has gone on to improve safety on our roadways. That same effort

is being aggressively applied to the property side now at the Institute for Business and Home Safety. And we believe that the building codes and the research that we are finding will help us mitigate loss that will occur because we know that these trends are going to continue.

Ms. NORTON. Thank you very much, Mr. Chairman. I appreciate your indulgence.

Mr. BARLETTA. Thank you.

The Chair recognizes Mr. Weber for 5 minutes.

Mr. WEBER. Thank you, Mr. Chairman.

I live on the gulf coast of Texas, and I have probably been through more hurricanes than anybody in the room. Contrary to my children's belief, I was not in the 1900 storm there in Texas.

Hurricane Ike hit in 2008.

Mr. Paulison, were you with FEMA in 2008?

Mr. PAULISON. Yes, sir.

Mr. WEBER. OK. It has been called the third costliest hurricane in history, almost 200 people killed and about $30 billion—with a b—in damage. Hurricane Ike hit the gulf coast about 18 to 20 miles east of the Houston Ship Channel. Had it gone up through the Houston Ship Channel, it would have shut down about 30 to 40 percent of the Nation's refining capacity and energy production. So, for us, it is a very, very huge area that we want to make sure that we get covered. We are in the process of trying to get some coastal barrier protection.

And, Mr. Berven, I think you mentioned Hurricane Ike in your testimony. You rarely hear about Hurricane Ike. It is called the forgotten hurricane because it happened September 13, 2008, and then the bottom dropped out of the housing market and the stock market about 2 or 3 weeks later.

So about 6 million people there on the Texas gulf coast. As I said, a lot of energy production.

Mr. Berven, you mentioned that some communities never recover from those kinds of disasters. Galveston is one of those communities. The Galveston Island had 50,000 people in it, and, as such, it met the level for Federal grants. Now that it dropped below 50,000, we are working on trying to get some language where communities that come back up following a Federal disaster, whether it is a wildfire or whatever it is, could, before the next census, get that designation back.

So my question to you is, if changes can be made to help—this is for you, Mr. Berven—if changes can be made to better help communities access these programs following a major storm, would that have an impact on insurance markets in your opinion?

Mr. BERVEN. Yes. There is—it is a great question. I appreciate the opportunity. And we see it—you know, a real-life scenario that we see with properties that were constructed on the gulf coast of Texas. During that hurricane, I believe there were 13 that were constructed with IBHS hurricane standards. There were 11 of those, and they were about the only 11 properties left at the end of that storm that were still standing. So, again, that, from the dynamic of, you know, the insurability and the affordability, and we think about all of those issues, it all has to do with mitigating and preventing the loss where those payments go out.

So, by improving the infrastructure and the sustainability through these building codes, it has a direct impact on the availability and affordability of insurance, which as we all know, is core to the overall communities in which we live.

Mr. WEBER. Thank you for that response.

I may be one of the only ones here in the room that has built his own house on the Texas gulf coast and built it to hurricane—in fact, built it beyond what we call windstorm program there in Brazoria County. We just really went above and beyond. As my own contractor, I can do things that most people wouldn't necessarily have the time or the money to do. So it is very important to us.

We are working on—having been part of this committee, and Chairman Shuster leading a great codel over to the Netherlands a couple weeks back, we are watching the coastal barrier protection over there. I am thinking that if we can protect—if the Federal Government could come in with about $15 billion—with a b—worth of protection on the upper Texas gulf coast, and we protect 6 million lives, homes, property, industry, refining industry, and actually probably about 20 percent of the Nation's economy, then it would yield a lot of rewards. So $15 billion worth of infrastructure on the front end might conceivably prevent—we had $30 billion in Ike and, as I said, 200 lives lost.

Do you think that, in and of itself, would impact the way that industry does insurance? I am talking about the refining industry now. Or do y'all just do strictly homes, residentials?

Mr. BERVEN. More on the residential and the homes is the piece where we have been on——

Mr. WEBER. OK.

Mr. BERVEN [continuing]. On that piece.

Mr. WEBER. OK.

Well, I appreciate your indulgence, Mr. Chairman. I am going to yield back.

Mr. BARLETTA. Thank you.

The Chair now recognizes Mr. Sires for 5 minutes.

Mr. SIRES. Thank you, Mr. Chairman.

I want to thank the panelists, and I want to especially thank Mr. Fugate. I must have listened to you speak a half a dozen times, and you are always available for us to speak. You know, my gripe is always the same. And when you were telling the story regarding the Arkansas school and then another storm came by and destroyed it, why do—if a storm destroyed a school, why do we build another school that can be destroyed by a storm? Why can't we build that in a stronger, more storm—how can I say it? I am looking for a word, but I can't think of it. But just to be able to withstand the storm? Why is it that we have to build it the same way?

Mr. FUGATE. Well, sir, previously, before the Sandy Recovery Improvement Act, FEMA would have to look at whatever the local building codes were. And that is what we built back to, and anything above that would be mitigation. But one of the things the committee did in Sandy was they gave the President the authority to use modeled or standard building codes, and we were able to adopt that. It is hard to build a school that would not be damaged by an F4, F5 tornado.

But this is what I consider almost criminal. We build it back without a safe room. So we took the work the International Code Council had done to develop standards for safe rooms to provide those tornado-hardened rooms to withstand F5 tornadoes so at least we are saving lives. And President Obama directed that we find a better solution after Moore. Well, the committee had given us a tool that allowed us to go above what the local building codes were and began using that to put safe rooms in all new construction after disasters. When we rebuild, if it was substantially damaged and it was a school, we are going to put a safe room in there.

So that was one of the things you did recognize on the committee, that many times when we are rebuilding, even if State and local codes weren't strong enough, FEMA should be building that into the repairs without having to do cost-benefit analysis or defaulting back to just mitigation, that it should be based upon the best science, best available data at the time of the damage to build back to, and really look to build to the future risk.

So, when that school got destroyed, we didn't have that tool. After that, we started building back. And so, after Moore, Oklahoma, FEMA's policy has been to use the tools we got in the Sandy Recovery Improvement Act unless the jurisdiction says, "No, we will not fund rebuilding substantially damaged schools without safe rooms." We may not be able to stop all the damage in a tornado, but we want to make sure that we can provide survivable space for those children if a tornado threatens again.

Mr. SIRES. Thank you.

You know, sometimes I think it is just common sense, some of the things that we just don't do.

You know, I live—when Sandy was very—in New Jersey where it was very damaging, and I remember going to the train station and just the electrical boxes were put on the floor. I mean, nobody thought at the time to put these electrical boxes on the floor, that one day they were going to get wet. So now they decided to put them up on the ceiling.

The other thing is these electrical centers, the transformers, they put them in a flood area that was low. So now they are raising them. But the problem in New Jersey, also, people want to live on the beach, but they want to live on top of the beach. And, to me, that was always a problem, even when I was in the State legislature. You just can't build sometimes in areas where they are now, and I don't know how to educate people.

I have been working on this—this National Mitigation Investment Act—with Carlos Curbelo from Florida to try to provide incentives for the States. But what actually works? What is the most effective incentive that you can give a State to do some sort of mitigation work, other than money?

Mr. PAULISON. Well, one of the proposals we talked about earlier was on the disaster side, if they do what they are supposed to do, give them a few more dollars, make it 80 percent instead of 75; and if they don't do it, cut it down to 60. I mean, that is my recommendation. Of course, that is something for your discussion, obviously. But there has to be an incentive, and there also has to be a disincentive for not doing what you are supposed to do, what the States are supposed to.

And don't forget: Hurricane Sandy was not a very powerful storm, barely a category 1. So what if you would have had a category 4 or 5 like we have in south Florida?

I disagree with Mr. Weber. I am in south Florida. I have a lot of hurricanes too.

Mr. SIRES. And the other thing is, you know, some of these areas where Sandy hit, they are old areas. They have a lot of—one of the things that people didn't notice is, for example, the city of Hoboken, there were over a thousand apartments that were in basements that were flooded. And that was an issue with the insurance companies.

You know, in urban areas that are really densely populated, people do live—and, you know, now they had to fight the insurance company because they didn't want to pay.

So this whole thing is just difficult to work through sometimes.

Thank you very much. And thank you for being here.

Mr. BARLETTA. The Chair now recognizes Mr. Faso for 5 minutes.

Mr. FASO. Thank you, Mr. Chairman.

I appreciate the panel coming here today. And I am intrigued by—I think it was Administrator Fugate; maybe, Mr. Paulison, you touched on this as well—the notion of municipalities not insuring their public buildings. And are there instances around the country where municipalities are typically doing this?

We had a significant storm in my district, Irene and Lee, the Schoharie County Courthouse was completely flooded. It had never happened before. It had basically destroyed all of their public records dating back well over 100 years. And the building was flooded. And, obviously, the basement flooded, but also it was well up on the walls of the first floor of that courthouse. And FEMA did fund a substantial mitigation and repair effort there. So, just in terms of trying to get municipalities, incentivize them to carry insurance, can you talk a little bit more about that? And where around the country are municipalities actually doing so?

Mr. FUGATE. Well, the problem is all over the place, and it can be side-by-side. I think you may want to put a question in for the record to FEMA to show how many times they pay for uninsured losses on structures. That would be your best indicator.

Mr. FASO. That would be an excellent idea.

Perhaps, Mr. Chairman, we can have the committee submit such a question to FEMA and have them place that in the record at this point.

Mr. FUGATE. Not being there, I don't mind giving them extra work.

But one of the things that—and this is something else I think the committee should look at. FEMA has a requirement that if we pay the first time, you should carry—you are required to carry insurance for the life of that afterwards. But there is a clause in there that, if the State insurance commissioner says it was neither affordable nor available, we will pay the second, third and fourth time. Now, FEMA's rule says we shouldn't be doing that. But the reality is FEMA is susceptible to Member pressure to try to find a way to get to yes. And in many cases, we have bent ourselves in a pretzel to get to yes to repair that structure the second or third time. I think it would be helpful to FEMA to get the intent

of Congress to more clearly stipulate that, if you are damaged the first time and you weren't insured, OK, we got you; we are going to repair it. We will put mitigation in it. But we will never come back to that structure again; you must carry insurance for that risk.

I think that needs to come from Congress because too often when FEMA has that discretion, the pressure to find a way to yes is so strong that we oftentimes repair it a second, sometimes a third, time.

Mr. FASO. And when you are mentioning public infrastructure, are you including—I didn't quite hear your answer before—are you including infrastructure such as roads and bridges?

Mr. FUGATE. I would defer on roads and bridges because that is something that I am not sure how you insure. But I would figure, if it has got a wall and it has an occupancy of stuff or people, it ought to be insured. And, generally, on the building side, where it is contents—I have been in many—like Dave says, in Florida, we probably rebuilt half the fire stations across south Florida. And think about it: the only reason we were paying as a Federal Government was because they didn't have insurance on those fire stations. Now, I am not going to hold the fire chiefs accountable because their budgets are set by their city and county commissioners. But somebody is making the decision to go self-insurance and hope somebody else will pick up the check if it is really bad.

Mr. FASO. And it is always the iron law of Government, as I have found, is that it is always easier to spend someone else's money.

Mr. FUGATE. Yes, sir.

Mr. FASO. And, now, Administrator Paulison, you had—we talked about, both you and Administrator Fugate, had talked about the issue of State building codes and creating an incentive if a State had a modern building code. Could you give us a little more information in terms of which States might be at the—really complying with your goal, and how would we—what is the standard which we should potentially put in law to determine which States might be reimbursed at the higher rate as opposed to those who were laggards and would be reimbursed at a lower rate, rather than that 75 percent?

Mr. PAULISON. I will just talk about my own State, the State of Florida, where we do have a statewide building code, and we actually beefed up that code based on the damage we saw during Hurricane Andrew. We totally changed—we had to fight, you know, with some of the contractors, because they thought we were going to raise the cost of houses beyond what people could afford. And it didn't happen. So we pushed hard to change the code, looked very clearly at what type of damage we had, and why did these homes fail. And I am talking about brandnew homes that failed, an area called Country Walk. These are brandnew homes, and every one of them failed. So why did they fail?

We had engineers look at that. And based on that, we looked—took a step back: OK. Here is why they failed. What can we do to fix it where they don't fail the same way again?

So a State like Florida would definitely get an incentive because they have done this, and they enforced their building codes. There may be another State—and I won't pick on anybody—but let's say

they don't have a statewide building code or they have one and it is not being enforced, so we are going to rebuild those homes back time and time again either through insurance costs or through costs from FEMA or somebody else. It still falls back to the taxpayer if a State, A, doesn't have a code, and it blows down, well, all of our insurance rates go up to compensate for what is—so it still comes back to the taxpayer.

So I am saying, let's—you know, let's be the adult here. I think Congress needs to step up and say that, if you don't have a statewide building code, if it is not being enforced, there has got to be a cost to that.

Mr. FASO. Thank you.

I thank the panel.

I yield back.

Mr. BARLETTA. Thank you.

The Chair recognizes Mr. Ferguson for 5 minutes.

Mr. FERGUSON. Thank you, Mr. Chairman.

And thank you all for taking time to come meet with us today.

A couple of questions. First of all, Mr. Paulison, your comments about not adding a lot of cost to the construction, particularly in Florida, related to, say, hurricane damage and the things you described, I agree with you. Thinking about it regionally—and this is more just a curiosity question—Mr. Phelps, how much more does it cost to build a home to make it earthquake resistant? I realize there is no such thing as earthquake proof. I mean, because there is a big difference between putting a few more nails in and changing the roof design as opposed to building one for earthquakes.

Mr. PHELPS. That is an excellent question.

Most of the improvements that can be made, whether it is building new construction or retrofitting an existing single-family home, are relatively inexpensive. Things like strapping water heaters to the walls, a couple of bucks for some metal strapping and some screws into a stud goes a long ways toward having your house burn down or be flooded following an earthquake. More robust improvements like strapping the home to the foundation if it was built, generally speaking, 40 years ago or so, when homes were not actually attached to their foundation, which, when I think about that, kind of blows my mind a little bit—but that was the case—those projects can be $3,000, $4,000, $5,000, depending on the size of the home.

So it is a relatively small investment. And, again, we have been very grateful in Oregon to be able to use some pre-disaster mitigation funds to do just that and work with homeowners to defray some of those costs on some of those expenses. So it is relatively inexpensive to retrofit, and I would imagine even less expensive to include those costs upfront during new construction.

Mr. FERGUSON. So y'all—you like that—obviously, the statewide building codes. Does that tend to have a regional component to it as well? I mean, are you thinking that maybe you get to the point that you have regional building codes for something like a fault line or a hurricane section?

Mr. PAULISON. Even in Florida, although we have statewide building codes, some of the counties, particularly Monroe County in the Keys, Dade, Broward, and Palm Beach Counties, it is a little

bit tougher code than what you would have in the middle part of the State. So, yeah, although there is a statewide building code, you look at the type of damage or you—or type of disaster you may have, and what kind of damage it can cause, and you modify the code through that whole State.

And along those lines, every State is not the same. We don't do earthquake mitigation in south Florida. But then, in Idaho, they are not going to do hurricane preparedness either. So every State is going to be different. What we are saying is, look at the type of natural disaster you may have in your particular State or your particular area and develop your codes to mitigate that type of damage. If we do that, it will save this country literally billions of dollars.

Mr. FERGUSON. Mr. Fugate, question for you.

It appears that when there is a natural disaster, there is a really, really high impact on small businesses.

Can you tell me why you—based on your experience, why this number of new businesses failing to reopen is so high?

Mr. FUGATE. They can't survive the cashflow and the cost. They are a small business. They don't have reserves. They cannot distribute their losses over a large corporate footprint. So they tend to be the most vulnerable.

And as we talked about all those billions of dollars, they don't go to small businesses. The only thing small businesses can potentially get is Small Business Administration disaster loans. So we have seen—my experience in Florida—but see now, FEMA across the Nation—is we see failure rates of 40 to 70 percent of small businesses do not make it through the disaster. The reasons are: no workforce, no customers, lack of housing, can't handle the cashflow.

And I tell some businesses, I said: This is a harsh reality. Reopening may not be your best option. Your best option may be to preserve your capital, cash out your insurance, and wait for conditions to improve.

And that is kind of harsh when local builders or local officials are trying to get their community back up and their tax base back up. But this is a harsh reality. Small businesses do not have a distributed footprint to absorb this, and our current programs are essentially a loan program that, in many cases, is a life line to nothing. It just gets them over a little bit, but they still end up failing because they don't get over the original impact.

Mr. FERGUSON. What would be your idea of a solution to address that issue?

Mr. FUGATE. Well, the first thing is, is kind of the basic stuff we are talking about about homes, is building more resilient construction for the businesses, but also doing something that I found that I learned, of all places, when we were down helping out USAID in Haiti is you have got to buy local and hire local. If we are not putting money back in the local economy, we are not targeting the local businesses, and we are always bringing help in from the outside, you miss opportunities. We spend hundreds of millions of dollars in response phases and initial housing on a lot of things that, locally, if we did a better job of tapping into that, we help.

I think it is something the committee needs to provide oversight to FEMA on is the tendency is we go with a lot of big contracts; we bring in a lot of folks from the outside to help. But a lot of times the best resources were right there in that community, and we didn't hire them, and we didn't put them to work. So I think that is one thing you should continue to hammer us over, is buy local and hire local from those local communities. That is the best thing we can do for small business in a disaster, is give them work and give them some income.

Mr. FERGUSON. Thank you, Mr. Chairman.

Mr. BARLETTA. Mr. Mast stepped out. So I will begin a second round.

Administrator Fugate, earlier this year, I introduced, and the House passed, the Disaster SAVE Act, which would increase FEMA's small project threshold to $500,000. Do you support this legislation and could you describe how you think it could speed up disaster recovery, reduce administrative burdens, and lower costs?

Mr. FUGATE. Mr. Chairman, I supported you when you had it at $1 million, but I understand that people were a little squeamish about that. But the idea that on small projects—we pretty much end up spending about as much money sometimes on small projects as we do big ones because of the overhead. By increasing the threshold—I believe by going to a half a million dollars, I think FEMA says that is going to be about 97 percent of what we actually do. It reduces the overhead burden on local governments and States. I don't think it increases the risk to the Federal taxpayer, and the oversight really isn't saving us. If we are going to do that kind of oversight, let's do it on big projects. And you gave us great tools to do cost estimates and speed that up. But on smaller projects, I think the risk of not providing that degree of oversight is more than compensated by the controls in place at State and local government, and the savings would be tremendous.

Again, FEMA estimates that, of the projects they write, they could get almost 97 percent of what they write into that threshold, which reduces the burden of regulatory oversight for State and local governments, reduces FEMA's costs of administering the grants, and I don't think increases the risk to the taxpayer by eliminating that process.

Mr. BARLETTA. We have got a project right now back in my district where the administrative costs that they are trying—that they are spending will be more than what they are trying to recover.

Mr. FUGATE. Oh, absolutely.

Mr. BARLETTA. Since September 11, 2001, DHS has provided over $40 billion in preparedness grants to State, local, and Tribal governments to strengthen their preparedness to terrorism and other hazards.

Chief Sinclair, as a former mayor, I know how critical Assistance to Firefighters Grants can be to local fire stations in obtaining the personal protective equipment that they need. Can you tell us how fire grants and other preparedness grants help our first responders prepare to manage the consequences of all hazards and what might happen if those capabilities were removed or diminished?

Chief SINCLAIR. Thank you, very much, Chairman Barletta, for the question.

In my written testimony, one of the things that we referenced is the National Fire Protection Association just did their fourth needs assessment of the fire service. And one of the things that that points out are all of the deficiencies that still currently exist.

The AFG [Assistance to Firefighters Grants] and the SAFER grant programs have been very good for providing opportunities for people to upgrade their equipment. I can tell you that, in 2007 and 2008, at my local organization, we were able to put in for an AFG grant that allowed us to replace very essential bunker ensembles and the self-contained breathing apparatus ensembles that we were unable to at that particular time. What that allowed us to do was take two organizations, a city and a fire district, merge those together, and become a much more effective and efficient system for the community. And it was the seed money from that purchase that got us working together, and it ultimately led to a merger.

The issue is, is that you broaden that out to the SHSGP [State Homeland Security Grant Program] and UASI money, and one of the things that we see there is that you have got people that are looking at this from an all-hazards perspective. And they are working together.

One of the things that we saw locally is that by working together and—it allowed us to go through flooding events, wildfire events, and a blizzard event where every road into our community was cut off. And the just-in-time supply piece cut in. So we wound up working with local law enforcement, the health department, and all of the other providers. But it was the seed money that allowed us to begin that planning process. And it made us a much more resilient community.

Mr. BARLETTA. Thank you.

The Chair now recognizes Ranking Member Johnson for 5 minutes.

Mr. JOHNSON OF GEORGIA. Thank you.

Mr. Phelps, you discussed how FEMA piloted its public assistance reengineering process with a 2016 disaster in Oregon that resulted in a substantial increase in the use of hazard mitigation. The State of Oregon received a disaster declaration earlier this year. Was the State able to replicate the increased use of mitigation in the 2017 disaster recovery?

Mr. PHELPS. Thank you for that question.

We were. Not to such a great extent, primarily just because of the nature of the damages. The 2016 declaration was more permanent work repairing the infrastructure that has been spoken about today.

The more recent disaster declaration was a lot of what we call category A and category B damages: debris removal and emergency response measures to be reimbursed with that Federal disaster declaration.

The handful of projects that we did have that involved permanent work, we certainly are considering mitigation. Our goal is for 100 percent of those projects. And right now, we are at about 25 or 30 percent of those projects with mitigation work being done on those permanent repairs.

Mr. JOHNSON OF GEORGIA. Thank you.

Other witnesses recommend allowing mitigation funds to be used to develop and enforce statewide building codes. Do you have any thoughts on whether this is an issue of lack of funding that some areas do not adopt statewide building codes, or is it an issue of a lack of willingness to adopt those codes?

Mr. PHELPS. I don't believe, in my experience, it is a lack of funding so much, but it is the perceived cost burden, perhaps, on increasing the building codes. I had heard a statistic—I can't verify the accuracy of it—but for every $1,000 a home increases, 100,000 people are priced out of purchasing that home. So every increase in the cost of building a home certainly has an impact on who can afford homes. And in Oregon, we have affordable housing concerns to be sure.

I think the building codes are one piece of it, but another piece is probably land use planning and how we look at where we are building in relation to coastal areas, in flood plains, and certainly the wild land interface where homes become much more susceptible to the threat of wildfire.

Mr. JOHNSON OF GEORGIA. What has prompted the State of Oregon to invest in mitigation?

Mr. PHELPS. We talked a little bit today about the carrot-and-stick approach. I think I can say with 100 percent certainty that the carrot for Oregon to do mitigation and robust mitigation and educate our policymakers on the importance of it—mitigation—is not the promise of Federal disaster dollars. We tend to wear, as emergency management directors at the State level, disasters—Federal disaster declarations—as notches on our belts. I would have been perfectly pleased going through my entire career never having received a Federal disaster declaration. Sadly, in 2 years, that has not been the case, and I have been blessed with a few Federal disaster declarations.

Our primary incentive is to save lives, protect property and reduce impact to the environment and the economy. That is what drives us to do the robust mitigation work we do. It is to try to limit the forecasted 10,000 dead and injured after a Cascadia Subduction Zone earthquake. So that number isn't nearly as great.

Mr. JOHNSON OF GEORGIA. Thank you.

Anyone want to add to that?

OK. From a State's perspective, Mr. Phelps, do you see any problems with requiring infrastructure built or repaired with Federal FEMA assistance to be constructed to meet the latest model building code?

Mr. PHELPS. I think we would welcome the opportunity to rebuild any damaged infrastructure during a disaster to whatever code is needed to withstand future stressors following disasters. There is talk, when FEMA comes in to help rebuild infrastructure, building it back to pre-disaster condition. More often that than not, that is not acceptable, and you are going to find yourself in the cycle of damages and disaster that has been referenced earlier. So certainly would welcome that opportunity.

Mr. JOHNSON OF GEORGIA. Thank you.

Chief Sinclair, you discussed the lack of training for many local fire departments. Do you have a recommendation on how to im-

prove the availability of FEMA or Department of Homeland Security training programs for local fire departments?

Chief SINCLAIR. Thank you very much for the question.

Certainly, our premier training organization that we utilize is the U.S. Fire Administration and the National Fire Academy.

They do a couple of different approaches to this. They have onsite courses, and they also work with the State fire training directors to send courses out.

What we are constantly doing is taking a look at what those evolving threats are and getting those types of information out.

There are other grant programs, such as the ALERT grants, that allow us to take specific training, for example, railway safety classes, especially out into the rural areas. And it is important for us to have a myriad of different ways to approach that training.

If you take a look at the railroad system and the bulk and the crude oil issue, the majority of the places where they have had issues is out in rural areas. And so every fire department that is on that rail line needs to know how to mitigate an actual event. So there is a host of different things.

When you are talking about the U.S. Fire Administration, they have established classes. Every time they go out and update those classes, it takes money to be able to do that. And that is one of the reasons why, in our testimony, we are asking for the U.S. Fire Administration to be fully funded.

Mr. JOHNSON OF GEORGIA. Thank you.

Chief SINCLAIR. Thank you.

Mr. JOHNSON OF GEORGIA. I yield back.

Mr. BARLETTA. Thank you.

The Chair recognizes Mr. Mast.

Mr. MAST. Thank you, Chairman.

You know, I would like to dig a little bit more into the burden of the State government, the burden of individuals, individual property owners, and what is the burden of the Federal Government. Basically, should States and individuals have to insure against the Federal Government creating an emergency for those entities?

And so, to put this in context, in 2016 and years prior, the Federal Government released trillions of gallons of literally toxic algal blooms into my community on the east coast of Florida, freshwater algal blooms into saltwater estuaries from separate bodies of water. And it was done because they were worried about a failing dike that surrounds Lake Okeechobee in our community and what it would have done to those communities south of that lake had that dike been breached. And as a result of those trillions of gallons of toxic algal bloom that was released into the community, it devastated human health. It devastated wildlife, devastated the economy.

So my question is for Mr. Fugate: If the Hoover dike, for which the Federal Government does have sole responsibility, had failed like what happened in New Orleans, would FEMA have helped those flooded communities?

Mr. FUGATE. Yes.

But you are asking, actually, a very simplistic question, because nobody wants to deal with why all the toxic waste is in Lake Okeechobee from the farmland runoffs. And that dike is providing your

drinking water supply in the dry seasons. So it is not a simple answer of one release causes another problem. That is a whole ecosystem that has a lot of issues.

Mr. MAST. But would FEMA have covered a flooded community if the dike had breached around Lake Okeechobee just like what happened in New Orleans?

Mr. FUGATE. Yes.

Mr. MAST. That is what I figured.

And as FEMA's chief Administrator, last year, twice you signed off to say that an emergency declaration that our State requested would be denied and despite the fact that it was the Federal Government who was the sole arbiter of releasing these trillions of gallons of toxic water into the communities. So what I am basically hearing is that, if the Federal Government had overseen a failing dike, they would have come to our aid; they would have come to our assistance. But when the Federal Government releases trillions of gallons of toxins, they are going to hang us out to dry; they are not going to provide any assistance. They are going to say, basically, that you are on your own.

Mr. FUGATE. You know, I have been in the State of Florida and State director through a lot of algae blooms and releases. My job was to make a job recommendation to the President and point out whether or not that release exceeded the State's capabilities to manage. Other than economic losses, you did not demonstrate any other types of losses. Generally, FEMA does not reimburse for economic losses or nuisance events.

So, when we evaluated the criteria, it did not meet the criteria to make the recommendation. Ultimately, that was the President's decision.

Mr. MAST. So I do want to get into that criteria a little bit.

First, Mr. Chairman, I would ask unanimous consent that the official correspondence between our Florida State Governor Scott and FEMA Administrator Fugate be included in the record, and these letters, please.

Mr. BARLETTA. No objection.

[The correspondence between Governor Scott and FEMA Administrator Fugate is on pages 81–96.]

Mr. MAST. Mr. Fugate, there are some other areas on that I want to touch. And that is basically this: Does the Federal Government's role in causing an emergency situation, does that play into the decisionmaking process, and should it play into the decisionmaking process?

Mr. FUGATE. Depending upon the types of impacts, the Stafford Act is directed toward the impacts to State and local governments from a causative eligible event. The Stafford Act defines what those eligible events are for major Presidential disaster declarations and gives guidance on what is an emergency declaration. It does not always specify whether or not the responsible party is present. But, generally, when there is a responsible party, it is the responsible party in that program that is looked at for the cost or the reimbursements. Several examples of this were other events where other Federal agencies had the lead role for events that did occur

that did not trigger a Stafford Act declaration even though it was requested.

So the denial of the State of Florida's request was not unique in the administration. There were other events that had occurred where Federal Government events were attributed to having caused that disaster; it was not determined to meet the Stafford Act. There were other events, though, such as fires, that had met triggering events from controlled burns, and FEMA was directed, through legislative action, to provide assistance due to controlled burns that resulted in fires off the Federal properties, and FEMA did administer those programs at the direction of Congress.

But I think, in many cases, the Stafford Act does have its limitations. If it is Congress' intent to fund that type of response, Congress can provide additional clarification and guidance to those events.

Mr. MAST. Chairman, I will yield back, unless you want to give me a second round.

Mr. BARLETTA. Since you missed your turn, we can continue.

Mr. MAST. I just have a couple more questions in this same line.

Mr. Fugate, this is a little bit about State population size. In regards to the same issue, the State of Florida was noted by your Director of Communications saying the State of Florida is the largest State in the Nation—one of the largest States with a population of almost 20 million people, has a robust capability to respond to emergencies and disasters. Does the phrase "State population size," does that—is that a place—something that appears anywhere in the Stafford Act?

Mr. FUGATE. No. But in the guidance that FEMA uses in determining the impact of disaster, you do look at the size and capabilities of a State. Per capita, a loss of eligible losses on a per capita basis is one of the factors that FEMA uses in calculating the threshold for disaster declarations.

Mr. MAST. So it doesn't appear anywhere in there. But should there be a hurricane or wildfire or something else, FEMA is going to take into consideration a State's size and population?

Mr. FUGATE. Yes. It looks at the per capita impacts as one of the determinations; did it exceed State capabilities?

Mr. MAST. Thank you for your responses. I know you are highly regarded in the emergency management circles and for your work under Florida's Governor Bush. So thank you for your responses, and thank you for your time.

Mr. BARLETTA. The Chair recognizes Mr. Graves for 5 minutes.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman.

I want to thank all of you for being here today.

Administrator Fugate, Administrator Paulison, Louisiana has had probably more than its share of disasters, everything from Hurricane Katrina to the August flood, which I believe FEMA has indicated was the fourth most costly flood disaster in U.S. history. A consistent theme comes up in each of these, and that is that what we see over and over and over and over again is that floods happen, disasters happen, and there were mitigation projects that were on the books that could have been done that would have prevented these.

In the case of Hurricane Katrina, some of the projects dated back to the 1960s, and these were Corps of Engineers' projects. Administrator Fugate, following Hurricanes Gustav and Ike, as I recall, in 2011, you and I rode around—all around the Northshore and Plaquemines Parish and other places talking about some of this. And, you know, FEMA has its Pre-disaster Mitigation, Hazard Mitigation Grant Program, and other things. And the efficacy of these programs, Administrator Fugate, as you have testified before this committee, they are extraordinary: studies indicating that you get $3 in cost savings for every $1 you invest. And I have seen other studies that have numbers that are beyond there. And I certainly think the numbers are higher.

Can you comment on your opinions now that you are both totally free? Can you comment on your opinion? We have the Corps of Engineers involved in resiliency. We have HUD. We have the Department of the Interior. We have USDA. We have FEMA. But just on the amount of money we spend, how we prioritize and coordinate these investments as compared to the amount of money we spend following a disaster?

Mr. FUGATE. Well, Representative, as we talked and we walked those parishes, many of those parish presidents were indicating they had projects on the books that just weren't funded. This is, I think, something that this committee has looked at, is how we have divided up disaster response. People look at FEMA's budget, and that is just, in many cases, just a small pool of what is actually going out there. A lot of times what will happen is we will end up with programs that get authorized, but there is never any funding. And then the Corps of Engineers has to take what limited funding they have across the Nation now and figure out where they are going to fund those priorities.

I think, again, it would be helpful for Congress to give more direction to the agencies to work on something we ask States to do, a statewide mitigation strategy. Perhaps an idea for this committee to consider is a national mitigation strategy, to at least draw the thread between all the various committees and the funding sources of saying we have got finite resources, but we are spreading the mitigation around all over the place and not really getting to the critical mass. Maybe if it was the intent of Congress to look at this funding and direct it more toward where the natural interests are, where we see the greatest disaster risk, may be a way to get some better utilization of that.

But I would suggest that that would be something that Congress and the intent and will of a national mitigation strategy that all agencies would be working from, versus each agency trying to figure out where they are going to get the biggest impact.

Mr. GRAVES OF LOUISIANA. Thank you. I think that is a fantastic perspective. I want to push back a little bit on the Corps of Engineers. I don't think it is just the funding issue. I think the Corps has wrapped themselves around the axle in many cases, simply incapable of delivering projects, but that is a separate discussion.

Mr. Paulison, do you care to add any perspective there?

Mr. PAULISON. I think we touched on something here we need to deal with. One, FEMA was created to make sure we had one belly

button, one point of contact for disaster response and mitigation issues. Now it has kind of morphed——

Mr. GRAVES OF LOUISIANA. Did you say belly button?

Mr. PAULISON. I did say belly button. Now we have this mission creep. We have disaster programs across the Federal Government. Department of Transportation has them. HUD has them. They are all over the place. I think Congress needs to focus these things back where they belong, put them back into FEMA, or put them under the control of FEMA, so we can have a cost-benefit analysis of each program that goes out there, of each thing we are going to be doing. Because right now, we really don't have a handle on how much money we are spending on these disasters. We kind of think we do, but we really don't. It is coming from a multitude of agencies. My recommendation is to put them back under the control, if not under FEMA, at least under the control of FEMA, so we know how much money we are spending, we know what is it being spent on, and is it being spent on something that needs to be done? Sometimes we are just spending it on stuff that is foolishness. So I think the whole thing, the mitigation thing, let's go back to where we were and why FEMA was created to begin with.

Mr. GRAVES OF LOUISIANA. You are both coming from FEMA, runs NFIP, and then you also respond to disasters. Do you think this continued policy of having a divorce or insulation between the Flood Insurance Program and where we invest our resiliency dollars should continue?

Mr. FUGATE. No. First of all, we got to figure out the Flood Insurance Program cannot run as a pure insurance company. It has got to look at factors—we got a built environment that is not going to change overnight. So we need to really put more emphasis on where our greatest exposure is in the Flood Insurance Program and, again, prioritize where we are going to put our resources, because the Flood Insurance Program itself doesn't generate the revenue to provide the additional funds for buyouts and mitigation. Pre-disaster mitigation, again, it is just not going to be enough. It's really going to take us taking a step back, and if there are opportunities in national infrastructure investments, let's buy down our risk, particularly in flood insurance.

I just read the Congressional Budget Office, we are about $1 trillion exposure just on one hurricane on the east coast. We subsidize 25 percent of those policies. Inland communities subsidize coastal communities, and it is not sustainable. So let's buy our risk down by making smarter investments on mitigation.

Mr. GRAVES OF LOUISIANA. Amen.

Mr. BARLETTA. Thank you. Thank you all for your testimony today. Your comments have been helpful to today's discussions. If there are no further questions, I would ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing and unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing. Without objection, so ordered. I would like to thank our witnesses again for their testimony today. If no

Members have anything to add, this subcommittee stands adjourned.

[Whereupon, at 12:04 p.m., the subcommittee was adjourned.]

STATEMENT OF

W. CRAIG FUGATE
FORMER ADMINISTRATOR
FEDERAL EMERGENCY MANAGEMENT AGENCY
U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

BUILDING A 21ST CENTURY INFRASTRUCTURE FOR AMERICA: MITIGATING DAMAGE AND RECOVERING QUICKLY FROM DISASTERS

APRIL 27, 2017

Chairman Barletta, Ranking Member Johnson, and distinguished members of the Subcommittee, thank you for the invitation to appear before you today as you examine how to protect infrastructure against future disaster damage, how to lower the overall disaster costs, and to identify challenges facing the Federal Emergency Management Agency (FEMA) in responding to, recovering from, and mitigating against disasters.

I very much appreciate the Committee's continued focus on reducing the costs of Presidentially-declared disasters and believe that better protection of the built environment—whether public infrastructure or residential or commercial real estate—is part and parcel of the eventual solution.

Additionally, I would like to offer my continued appreciation to the whole Committee for its work over the years to keep the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 100-107) up to date and relevant for state, local, and—as of 2013—tribal governments dealing with emergencies and disasters that exceed their capabilities. The continuously updated Stafford Act by which FEMA operates today is a testament to the fact that the Congress understands that disasters and emergencies are non-partisan events and that statute governing how the federal government supports state, tribal, local, and territorial governments is a key piece of preparing for, protecting against, responding to, recovering from and mitigating all hazards.

How to Protect Infrastructure Against Future Disaster Damage

The best way to protect the built environment against future disaster damage is by building for strength and resilience—the ability to quickly recover—above and beyond the current known natural threats. At some point this becomes cost prohibitive, but the governments in this country, from the federal level all the way down to the most local units of government, currently subsidize risk in various ways beyond what would change societal behavior to build stronger and more resiliently.

While this Administration and Congress refuse to link it with climate change, the federal government is spending billions of dollars annually to deal with the effects of extreme weather and not nearly enough to combat future risk. I've included for the record links to two op-eds published in The Hill on January 30, 2017[1] as well as a follow-up published on April 5, 2017 in Newsweek[2], which highlight a few of the many significant examples.

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[1] Alice Hill and Craig Fugate, Opinion Contributors. "Proper Infrastructure Investment Must Account for Climate Change." *TheHill*. 31 Jan. 2017. Web. 26 Apr. 2017. http://thehill.com/blogs/ballot-box/316938-proper-infrastructure-investment-must-account-for-climate-change

[2] Alice Hill and Craig Fugate, Opinion Contributors. "Proper Infrastructure Investment Must Account for Climate Change." *TheHill*. 31 Jan. 2017. Web. 26 Apr. 2017. http://www.newsweek.com/small-towns-trump-hurting-his-denial-climate-change-578261

Something that FEMA and the Obama Administration pursued with regard to resilience was the introduction of the Federal Flood Risk Management Standard (FFRMS, Executive Order 13690), as well as significant on the record public engagement to address any concerns prior to formal implementation of the FFRMS.

FFRMS required that all future federal investments in and affecting floodplains meet the level of resilience as established by the Standard. The Standard specifically requires agencies to consider current and future risk when taxpayer dollars are used to build or rebuild in floodplains. In implementing the Standard, federal agencies were to be given the flexibility to select one of three approaches for establishing the flood elevation and hazard area they use in siting, design, and construction:

- Utilizing best-available, actionable data and methods that integrate current and future changes in flooding based on science,
- Two or three feet of elevation, depending on the criticality of the building, above the 100-year, or 1%-annual-chance, flood elevation, or
- 500-year, or 0.2%-annual-chance, flood elevation.

The FFRMS built upon the work of the Hurricane Sandy Rebuilding Task Force, which announced in April 2013 that all Sandy-related rebuilding projects funded by the Sandy Supplemental (P.L. 113-2) must meet a consistent flood risk reduction standard. The Hurricane Sandy Rebuilding Strategy recommended that the federal government create a national flood risk standard for Federally-funded projects beyond the Sandy-affected region.[3]

Aside from federally-funded infrastructure investments being built to a higher standard, it is also important for governments receiving federal assistance for public infrastructure—FEMA's Public Assistance (PA) program—to obtain and maintain insurance on repaired or reconstructed facilities[4]. That said, there's a loophole that allows governments receiving PA to sidestep this requirement; a State Insurance Commissioner can certify that such coverage is unavailable. There is a cottage industry that assists PA recipients avoid insuring these investments, which have been paid for with at least with 75% federal dollars. Ultimately, the federal government can again be on the hook for repairing or replacing these investments the next time disaster strikes if they were not designed for resilience and/or adequately insured. This is an area where FEMA made improvements in enforcement during my tenure, but there is still room for my successor to build upon moving forward.

Finally, with regard to residential and commercial infrastructure, a confluence of perverse incentives lead to less resilient construction in more at risk areas. Commercial and residential real estate occupancy and development are economic engines in countless communities across the nation. Any effort that could adversely impact the bottom line for associated industries are avoided, whether it's regularly reviewing and adopting the latest international building and safety

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[3] "Federal Flood Risk Management Standard (FFRMS)." *Federal Flood Risk Management Standard (FFRMS) | FEMA.gov*. Web. 26 Apr. 2017. https://www.fema.gov/federal-flood-risk-management-standard-ffrms

[4] 44 CFR 206.252(d) and 253(b)(1)

codes, voluntarily disclosing the annual risk of flood or other known natural hazard, having an understanding of future conditions based on the best available and actionable science, disputing updates to floodplain data because "it's never flooded [there] before," or moving the 20% of National Flood Insurance Program (NFIP) policies that are grandfathered or subsidized to actuarial soundness—reflecting the actual risk—because it's politically dangerous.

Updating the existing built environment, as economically feasible and necessary, goes hand in hand with ensuring that new construction and reconstruction of damaged or destroyed facilities factor in resilience and reducing future risk. I testified earlier this year that there's a four-to-one benefit cost to the taxpayer for mitigation projects and the outcome is that disaster relief spending should ultimately be reduced in the out years because it costs significantly less to fund recovery for resilient construction following a disaster.[5]

When it is not cost-effective to update existing infrastructure, the federal government has seen limited success with buying out private property owners, but not enough. While, in the long run, recovery in a community that has successfully bought out high risk properties, the near term impacts can appear more economically significant and damaging than they actually are.

There are many easily identified solutions to better protect infrastructure, but it will be difficult at any level of government—especially in this politically-charged environment—to mandate a change that enhances the strength and resilience of the built environment at even a minimal cost to short term economic growth and prosperity.

How to Lower Overall Disaster Costs

When I appeared before this Subcommittee in January 2015, I thanked your efforts to pass the Sandy Recovery Improvement Act (SRIA) into law, authorizing several significant changes to the way FEMA delivers disaster assistance. SRIA, and the additional authorities it provided, have certainly aided recovery efforts associated with Hurricane Sandy and subsequent disasters, but there's more that can be done to reduce overall disaster costs and allow FEMA to be a better steward of taxpayers' investment in the Disaster Relief Fund (DRF).

SRIA required FEMA to make recommendations for the development of a national strategy to reduce costs on future disasters that should:

- Respect the constitutional roles and responsibilities of the different levels of government, as well as the private sector;
- Address vulnerability to damage from flooding, severe weather, and other hazards;
- Analyze gaps and duplication of emergency preparedness, response, recovery and mitigation at all levels of government; and

[5] "The Future of FEMA: Recommendations of Former Administrators." *House Committee on Homeland Security*. Web. 26 Apr. 2017. https://homeland.house.gov/hearing/future-fema-recommendations-former-administrators/

- Include recommendations on improving resiliency of states, local, and tribal communities to lower future response and recovery costs.[6]

The Agency's recommendations were submitted to Congress in September 2013[7]. FEMA took the additional step of publishing two Advance Notices of Proposed Rulemaking (first ANPRM[8], second ANPRM[9]) building upon one of the ideas in the report: that of a disaster deductible concept[10]. This can be a lengthy process and I encourage the Committee to continue to engage with the Agency as it sees fit.

From the summary of the initial ANPRM, "FEMA believes the deductible model would incentivize Recipients to make meaningful improvements in disaster planning, fiscal capacity for disaster response and recovery, and risk mitigation, while contributing to more effective stewardship of taxpayer dollars. For example, Recipients could potentially receive credit toward their deductible requirement through proactive pre-event actions such as adopting enhanced building codes, establishing and maintaining a disaster relief fund or self-insurance plan, or adoption of other measures that reduce the Recipient's risk from disaster events. The deductible model would increase stakeholder investment and participation in disaster recovery and building for future risk, thereby strengthening our nation's resilience to disaster events and reducing the cost of disasters long term."

There are numerous concepts for reducing federal disaster spending, either via statutory changes, voluntary administrative changes to declaration criteria, or similar changes as corrective action recommended by the the Department of Homeland Security Office of Inspector General or as a result of a finding of the Government Accountability Office. The Public Assistance deductible concept would help state, local, tribal, and territorial governments take more steps ahead of a disaster or emergency that would hopefully drive down federal costs or significantly slow the growth in disaster-related federal spending

Challenges Facing FEMA

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[6] "Sandy Recovery Improvement Act of 2013." *Sandy Recovery Improvement Act of 2013 | FEMA.gov.* Web. 26 Apr. 2017. https://www.fema.gov/sandy-recovery-improvement-act-2013
[7] "FEMA National Strategy Recommendations." *FEMA National Strategy Recommendations | FEMA.gov.* Web. 26 Apr. 2017. https://www.fema.gov/media-library/assets/documents/35064
[8] "Establishing a Deductible for FEMA's Public Assistance Program." *Federal Register.* 20 Jan. 2016. Web. 26 Apr. 2017. https://www.federalregister.gov/documents/2016/01/20/2016-00997/establishing-a-deductible-for-femas-public-assistance-program
[9] "Establishing a Deductible for FEMA's Public Assistance Program." *Federal Register.* 12 Jan. 2017. Web. 26 Apr. 2017. https://www.federalregister.gov/documents/2017/01/12/2017-00467/establishing-a-deductible-for-femas-public-assistance-program
[10] "Public Assistance Deductible." *Public Assistance Deductible | FEMA.gov.* Web. 26 Apr. 2017. https://www.fema.gov/deductible

I'll reiterate concerns I raised in my written testimony for the February 28, 2017 House Committee on Homeland Security on this matter.[11] The most significant issues that I believe the incoming Administrator must be aware of in order to succeed will be protecting the Agency's authorities; ensuring adequate funding for federal disaster relief; preserving the commitment of the federal government in the Robert T. Stafford Disaster Relief and Emergency Assistance Act to states and tribes; and ensuring that the federal government is properly investing in resilience and not subsidizing risky behavior.

It's vitally important that the political leadership team at FEMA understands the unique relationship of FEMA during times of crisis is in support of states and tribes, at the direction of the President and per the Stafford Act. Additionally, the FEMA Administrator has a unique operational relationship among Department of Homeland Security (DHS) components to report directly to the President during times of crisis, as Congress mandated in the Homeland Security Act as amended by the Post-Katrina Emergency Management Reform Act (PKEMRA, P.L. 109-295). So far, this Administration has continued in the same manner as the Obama Administration in this regard.

Despite its primary responsibility to governors and tribal leaders who can request federal assistance from the President, FEMA relies completely on the Congress for its authorities and appropriations. I cannot speak for my predecessors, but FEMA was relatively effective during my tenure as Administrator when it came to working with Congress when there was a need for supplemental appropriations or statutory changes to relevant authorities. It is vital that this line of communication and collaboration endures.

In my time at FEMA, there was not a single year when FEMA operated under an on-time appropriation. That year-to-year instability—while consistent—makes running the organization more challenging.

When Chief Paulison was tapped to lead the Agency in 2005, it was in the days immediately following Katrina's impact along the Gulf Coast and there were clear failures at all levels of government in the response to that event. In the aftermath of Katrina, Congress conducted vigorous oversight of the federal government's response to Katrina.

The outcome of this oversight was PKEMRA. It was landmark legislation drafted, debated, and ultimately enacted, out of frustration with FEMA's performance in response to Hurricane Katrina.

Congress designed PKEMRA to support and strengthen FEMA, and its sweeping restructuring requirements benefitted the Agency greatly. Today, FEMA has the authority and the autonomy it needs to assist communities as they prepare for, protect against, respond to, recover from, and mitigate against all potential hazards.

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[11] "The Future of FEMA: Recommendations of Former Administrators." *House Committee on Homeland Security*. Web. 26 Apr. 2017. https://homeland.house.gov/hearing/future-fema-recommendations-former-administrators/

In 2005 when Katrina struck, FEMA was no longer an autonomous Agency. As a part of the two-year-old Department of Homeland Security, FEMA's programs were split apart. Most of its disaster assistance activities were inside DHS' Emergency Preparedness and Response Directorate (EP&R) while FEMA's other programs were siloed elsewhere throughout the Department.

In debating PKEMRA, Congress permanently restructured FEMA's functions back under a single operating component to improve the federal function of emergency management.

PKEMRA required FEMA to be a distinct entity and prohibited—by statute—any future changes to FEMA's mission by the Department. The law also returned the Preparedness Directorate to FEMA, including the Fire Administration, and the programs under the Office of Grants and Training.

Congress also made permanent changes to FEMA leadership. PKEMRA mandates that to hold the position of FEMA Administrator, certain qualifications and experience are necessary (6 U.S.C. § 313(c)2). In addition, PKEMRA ensures that the FEMA Administrator is the principal advisor to the President on all matters relating to emergency management that the Administrator is assured a seat in the Cabinet, as required (6 U.S.C. § 313(c)4 and 6 U.S.C. § 313(c)5).

PKEMRA was enacted just thirteen months after Katrina made landfall. It was under Chief Paulison's leadership that the Agency began the tasks necessary to rebuild the Agency.

Unfortunately, as recently as 2016, there were attempts to undermine the protections Congress provided FEMA in PKEMRA when the full House Homeland Security Committee advanced "unity of effort" legislation with the intent of giving the Secretary of Homeland Security more control over the various operating components of the Department.

While some language was ultimately added to preserve the PKEMRA protections in the language that was added to the National Defense Authorization Act, future Agency leadership should be aware that there are still efforts in Congress and at the Department that would hinder FEMA's abilities to effectively respond, especially to a catastrophic event such as a Cascadia Subduction Zone- or New Madrid- earthquake.

The other great challenge that the Agency faces in the coming years is budgetary.

Following the enactment of the Budget Control Act (BCA), FEMA became an extremely lean operation; outside of the Disaster Relief Fund (DRF), there's not much fat left to trim. I and my leadership team took sequestration seriously and looked at ways to maximize organizational efficiencies without sacrificing the Agency's mission essential functions.

As for the DRF, the BCA was actually a short-term boon. Prior to BCA, the DRF had been inadequately funded through the regular appropriations process. Instead, the Agency relied on

supplemental appropriations bills to be quickly enacted in the wake of significant events to replenish the DRF and fund recovery from emergencies and disasters, and operated this way year after year.

In 2011, as the Agency was responding to hurricanes Irene and Lee, the balance in the DRF got so low that the Agency implemented "immediate needs funding" (INF), meaning states and locals that were expecting FEMA funds to pay for recovery work stopped receiving federal dollars. The Agency had barely enough money to pay for ongoing response activities and had to stop funding recovery in communities all across the nation.

Appropriators knew that INF was a potential problem and the situation led to a formula being included in the Budget Control Act that would provide more stable and significant funding to the Agency based on a rolling ten-year average of disaster response and recovery costs.

This worked well for several years, but once the years that included Katrina, Rita, and Wilma dropped off the formula's average, the annual appropriation for the DRF ratcheted down.

At the end of Fiscal Year 2016, the Agency successfully managed response and recovery spending to the point that—even with Hurricane Matthew bearing down on the southeastern U.S.—FEMA still had adequate funds to get through the FY16 appropriation under which the federal government was operating without the need for a supplemental appropriation expressly for the DRF.

At the close of FY16, there was less than $100 million in the portion of the DRF set aside for major disasters. To put that in perspective, FEMA spent $1 billion in the first month following Sandy's landfall, so $100 million would not have lasted long had there been another significant disaster in addition to Matthew prior to the expiration of the fiscal year.

In the Budget Control Act framework, Congress designed a failsafe for supplemental disaster spending that would count toward the DRF's formula and then another failsafe for "emergency" spending beyond the disaster space that would not count toward the DRF formula, but the Subcommittee is likely very aware of the difficulty to pass any appropriations measure in regular order.

Following Sandy, the 112th Congress adjourned after its disaster supplemental attempt was blocked. It took the newly installed 113th Congress three weeks to pass a supplemental to replenish the DRF. While FEMA had the resources needed to continue with response and recovery operations, there were many federal departments and agencies with disaster-related recovery needs that were left unfinished while needed funds were debated and ultimately appropriated by the Congress.

Congress must re-evaluate the formula that drives the DRF's annual appropriation as well as the potential budgetary space beyond the appropriation for disaster supplementals, and then the space for "emergency" supplementals beyond the disaster supplemental space.

This disaster supplemental space also became an area of contention during the last few years as the House Natural Resources Committee and other Members—including some on this Committee—looked for ways to fund wildfire suppression on federal lands for the Department of Agriculture (USDA) and the Department of the Interior (DOI).

Congress must not amend the Stafford Act to provide a Presidential declaration for an event that would give a federal department or agency access to the Disaster Relief Fund or the disaster budget space to meet their own mission. Congress established the Stafford Act framework of federal assistance expressly to support state, local, tribal, and territorial governments, not to serve as a backstop for legislative gridlock preventing an appropriations and budgeting solution to challenges that other federal entities may face.

In November 2016, the Obama Administration proposed a legislative fix that would have solved the issues that USDA, DOI, and DHS/FEMA all faced, but Congress did not have an opportunity to debate or act on the proposal given the reluctance to amend the Budget Control Act.

It is imperative that this issue is dealt with soon, otherwise you and your colleagues will again be forced to debate supplemental disaster appropriations bills on a recurring basis, all while FEMA's ability to respond and recover is hindered.

Another challenge facing FEMA is the statutorily-mandated National Flood Insurance Program (NFIP). With the passage of Biggert-Waters Flood Insurance Reform Act of 2012, the Congress tried to charge all policyholders rates that reflect their true risk of flooding. It then repealed those changes less than two years later when interest groups waged a campaign alleging widespread premium increases of tens of thousands of dollars.

While there were a handful of policyholders who may have legitimately seen very high premiums, it was because their properties were in extremely high-risk areas. As mentioned earlier, the federal government has been subsidizing that risk and incentivizing future risk in areas we know will be impacted by extreme weather and sea-level rise.

Another difficult conversation that the Congress must have about risk subsidization regards the affordability of the NFIP for its policyholders. When the Congress established the NFIP, it did so to create a risk backstop for the mortgage industry; it was not looking at future development or the fact that the federal government was going to be running an insurance company for a pool of high-risk policyholders.

While the NFIP has many policyholders who can afford to live in high-risk areas in desirable coastal communities, there are many other policyholders who live in or near floodplains because they are lower income and that is where affordable housing is located inland.

The NFIP must be reauthorized by the end of FY17 and it is imperative that the House Financial Services Committee and Senate Banking Committee take into consideration the findings of the

National Academies of Sciences, Engineering, and Medicine—which Congress commissioned to study the matter to better inform the Congress on premium affordability—ahead of the next major reauthorization.

The Agency currently has the authorities and resources needed for success, but they are both in jeopardy. It is vitally important for the next Administrator to continue building upon the strides the Agency has made since Katrina and working with Congress to ensure authority and funding are not diminished.

Conclusion

This Subcommittee has endured as a valuable partner to the Agency and the emergency management community for decades. Disaster spending has been an identified challenge for some time now and there are many paths down which Congress, the Administration, and/or the Agency may go to address the issue.

You have my commitment that I will continue sharing my expertise when it comes to disasters and emergency management and I look forward to seeing a meaningful reduction in federal disaster spending while improving resiliency nationwide.

Thank you again for the opportunity to testify before you today.

STATEMENT

OF R. DAVID PAULISON

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

HEARING ON

BUILDING A 21ST CENTURY INFRASTRUCTURE FOR AMERICA: MITIGATING DAMAGE FROM NATURAL DISASTERS

APRIL 27, 2017

Chairman Barletta, Ranking Member Johnson, and distinguished members of the committee, I would like to thank you for holding this important hearing today regarding building a 21st Century Infrastructure for America.

Specifically, I want to address how we can mitigate damage and recovery quickly from disasters. I am grateful for the leadership of the Chairman and the Ranking Member and for the opportunity to share my expertise and assist with the goals of this committee.

In no uncertain terms, I want to impress on the committee today that we have a moment - ***right now*** - to Make America Resilient Again and save both lives and taxpayer dollars.

In my 35 years of experience dealing with natural disasters at the federal, state, and local levels, including my service as Administrator of FEMA from 2005 to 2009, I can tell you that our federal policy regarding disasters does not do nearly enough to prevent infrastructure failure before a disaster strikes. Today, we are unnecessarily putting lives at risk and wasting billions in taxpayer money.

My position is largely influenced by experiencing firsthand the aftermath of multiple catastrophes. I remember the devastation of Hurricane Andrew in 1992, Hurricane Katrina in 2005, and numerous wild fires, floods, and tornadoes over the course of my career.

In the southeast, thousands of homes that were destroyed by Hurricane Andrew should still be standing today. Following the storm, I will never forget walking down the street and finding that where once stood a home was now only a concrete slab. This continued as I went — slab after slab, block after block, on and on. I would stop in surprise only when I came across a house that actually was still standing.

These homes and businesses were destroyed because they were never built to withstand the natural disasters that would inevitably come, or, in some cases, because building codes that would have fortified these structures were adopted but not enforced. This lack of attention to building codes leads to the homes falling in the wake of a disaster. This matters to this committee because, as you all know, in these instances the cost to rebuild typically falls to the U.S. taxpayer.

It is unfortunate that this has become the reality of our nation's current disaster policy. We do not do enough before disasters strike and the cost in lives lost and off-budget taxpayer assistance continues to rise.

As all of us remember, on August 29th, 2005, Hurricane Katrina made landfall in southeast Louisiana, killing 1,833 people and causing $108 billion in property damage, making it the costliest natural disaster in United States history. Seven years later, Hurricane Sandy arrived and killed 233 people and caused $68 billion in property damage. That is over 2,000 lives lost and $176 billion in mostly off-budget funding.

Such destruction and recovery are not isolated events, but part of a larger trend. According to the BuildStrong Coalition — who I am pleased to serve as an advisor — since 1980, the U.S. has been struck by 178 weather and climate disasters, each resulting in damage over $1 billion with a total cost exceeding $1 trillion. We are in the midst of a 30-year upward trend that has seen the number of disaster declarations rise in number year after year.

As expected, when the number of disaster declarations increases so does the federal liability for disaster recovery. In 1955, when Hurricane Diane struck the Atlantic Coast, the federal government paid for approximately five percent of losses. In 1989, when Hurricane Hugo hit the

southeast, the federal government covered approximately 25 percent. In 2005, when Katrina made landfall in the Gulf region, the federal government covered about 50 percent of the costs. When Hurricane Sandy hit the northeast only a few years ago, the federal government was responsible for approximately 80 percent of the costs.

The Office of Management and Budget reported that the average annual federal funding amount for disaster relief from 2001-2011 was $1.5 billion. By 2013, that number had jumped to almost $13 billion in annual funding. We don't need more evidence. The number of disasters declared by the federal government will only continue to increase and so will the cost to the U.S. taxpayer. This is simply unsustainable over the long term. Current U.S. disaster policy, with its emphasis on funding post-storm recovery efforts and minimal focus on mitigation, serves only to perpetuate the cycle of destruction where cities are rebuilt only to be devastated again by the next big event.

To break the existing cycle of destruction and recovery, the U.S. must begin to shift away from ineffective, reactive post-disaster spending to a proactive system that focuses on protecting the nation from the rising frequency of major disasters. Here are four game-changing ideas that will Make America Resilient Again and save billions of dollars and countless lives:

1. Reform the Federal Cost Share

First, we must get serious with states to ensure they approve mitigation plans and adopt and enforce statewide building codes. The fact is the federal government continues to have massive fiscal exposure in high risk areas in part because states are either not adopting appropriate building codes or they aren't enforcing the codes. This lack of will by state policymakers and

state regulators costs federal taxpayers billions and federal policymakers have every right to encourage the states to act correctly.

That is why we should tie federal money for disaster assistance directly to the decisions by states in preparing for disasters. Today, the federal minimum cost share following a natural disaster is **75%**. The committee should look at rewarding states that improve resiliency by increasing their cost share to **80%**. Conversely, the committee should examine lowering the federal cost share to **60%** for states that fail to approve, adopt, or enforce mitigation plans or building codes. This action will force states to work with *fewer* federal dollars if they continue to shirk their responsibilities on the state and local levels in order to ensure that homes are built to code. This plan is simple and recognizes "good" and "bad" state behavior. The new 60% minimum allows the President the built-in flexibility to adjust the cost share up depending upon the scale of disaster and state preparation.

2. Post-Disaster Spending Set Aside for Pre-Disaster Mitigation Assistance

The FEMA pre-disaster mitigation programs are incredibly small compared to the massive amount of post-disaster money that flows from Congress. For example, in the fiscal years between 2011 and 2014, the federal government allocated roughly $222 million for pre-disaster mitigation compared to $3.2 billion for post-disaster mitigation, a ratio of roughly 1:14. Post-disaster spending swamps pre-disaster mitigation spending and that must change if we are ever going to reduce the cost of disasters in money and lives.

The problem is that there is no money on budget at FEMA — or in Congress — until after an event occurs. Therefore, I believe we must use a dedicated portion of the total annual money spent from the Disaster Relief Fund and allocate it towards a new National Hazard Mitigation

Grant Program (NHMGP). This new NHMGP would be funded with existing DRF funds — not a new appropriation — and would cause the federal government to fund a nationwide mitigation program that we know provides a 4 to 1 return on investment savings for future disasters.

A National Hazard Mitigation Grant Program would operate like the Hazard Mitigation Grant Program (HMGP) except funds would be available nationwide without regard to whether or where a disaster has occurred. Under this proposal, grant funding would be allocated for the development, implementation, or enforcement of approved building codes and other cost-effective mitigation purposes.

For states that recognize that they need to reform their building codes or need to do more to enforce existing codes before a disaster, the federal government should also be able to help. The development of state building codes should be eligible uses under the Pre-Disaster Mitigation Program. Experts agree that every dollar in prevention saves $3 to $4 for the taxpayer, meaning a $1 billion investment over five years could save $3 to $4 billion in the aftermath of the next disaster. Helping states develop and enforce building codes is a clear way to save lives and federal tax dollars.

3. Essential Assistance to Disaster Areas to Develop Statewide Building Codes

The Federal government should do everything possible to encourage resilient building codes, especially in areas where a disaster has already occurred; right now, we do very little. When a disaster strikes, there is an influx of money but little incentive to ensure that a state is not rebuilding to standards that did not withstand the initial disaster. If a state has not fortified correctly, we should try to take something positive out of an event occurring by making sure that state has the opportunity to fix its oversight. Funding should be available as essential assistance

for the development and enactment of statewide building codes for two years after a disaster strikes. These funds would be used to defray costs associated with the development and enforcement of a statewide building code and accelerate recovery.

4. Consolidation of Federal Program Administration

From my time as the FEMA administrator, I can tell you that the federal government has a reactive response to disasters. This causes a large flow of money to come into many different agencies in a short window, resulting in a lack of accountability to the taxpayer. I believe we can actually reduce federal disaster spending by consolidating ad hoc federal disaster assistance programs under FEMA. FEMA, in consultation with other federal agencies, will publish a list of programs that will then be transferred to and administered by FEMA. I suggest we also require FEMA-administered projects to meet cost benefit standards, be directly related to disaster damages, and be coordinated with other disaster mitigation measures.

The influx of money is real and non-FEMA programs are not equipped to move the funds out quickly. According to the final report of the Recovery Accountability and Transparency Board (RATB) which, as you may know, was a nonpartisan agency established by the American Recovery and Reinvestment Act of 2009, billions in funding for Hurricane Sandy remained unspent years after the disaster. In fact, of the $33.99 billion in non-FEMA funding designated to government programs in the Sandy Supplemental, as of March 2015, only $6.93 billion had been paid out.

On top of this, the lack of cost controls leads to more waste, fraud and abuse. The office of Inspector General since January 2013 had opened 225 investigations and initiated 72 audits across various agencies concerning Hurricane Sandy supplemental appropriations. From those

investigations, the various OIGs identified $226.9 million in questioned costs and recommended $76.7 million be reprogrammed for better use of funds. Of the $76.7 million recommended for better use of funds, $53.2 million was recommended from HUD's Community Development Fund (CDF) alone.

Inefficiencies were found in use the CDFs by cities large and small. The Department of Housing and Urban Development OIG completed an audit of the New York City Office of Management and Budget's administration of the Community Development Block Grant Disaster Recovery Assistance (CDBG-DR) funds awarded to the city as a result of damages caused by Hurricane Sandy, and found that funds designated for the city went to a sub-recipient without adequate objectives or monitoring for its use. As a result, city officials could not assure HUD that the CDBG-DR funds were disbursed for eligible, reasonable, and necessary program expenses in compliance with HUD rules and regulations. Further, the remining allocation of $40 million would be considered funds put to their intended use only if city officials established adequate monitoring controls.

A similar review of Minot, North Dakota's CDBG-DR program determined that the city did not fully comply with federal and local procurement requirements. The audit determined that this was because the city lacked detailed operational procedures and checklists for implementing applicable procurement regulations. As a result, HUD was not assured that the city received the best value and the greatest overall benefit for more than the $11.6 million in various CDBG-DR procurement contract, amendments, and change orders.

These projects are examples of money flowing to non-FEMA programs that had no cost-benefit analysis attached to them before they were allocated for disbursement. This lack of accountability to the taxpayer must end. That is why I am calling for consolidating disaster spending under FEMA

and ensuring that a cost-benefit analysis that shows the spending is directly related to disaster damages be adopted by this committee.

My 35 years working in emergency preparedness tells me we simply are not doing enough for our country. There is no excuse to not demand that states enforce building codes when it is the federal taxpayer who must foot the bill. Federal policymakers must stop this terrible deal for the taxpayer and make America resilient.

These measures will save lives and save taxpayer dollars. They force states that are not achieving a level of efficiency in their structures to improve or lose access to millions of dollars in disaster relief. I encourage the committee to take this opportunity and act.

Thank you and I look forward to continuing to work with the committee on this important issue.

Andrew Phelps

Director, Oregon Military Department, Office of Emergency Management

STATEMENT FOR THE RECORD

Submitted to the House Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings, and Emergency Management

United States House of Representatives

"*Building a 21st Century Infrastructure for America: Mitigating Damage and Recovering Quickly From Disasters*"

April 27, 2017

Introduction

Thank you Chairman Barletta, Ranking Member Johnson, and members of the Subcommittee for holding this hearing today. My name is Andrew Phelps, and I am the director of the Oregon Office of Emergency Management. I am pleased to provide testimony on the important role hazard mitigation plays in Oregon, the role it is expected to play as we brace for the inevitable Cascadia Subduction Zone earthquake, and the impact federal mitigation and other grant funds have had on these efforts.

Throughout my career in emergency management, I have come to accept we cannot eliminate every hazard. What compels me to do the work that I and my colleagues in the great state of Oregon do every day is the belief that the role of an emergency manager is to keep those hazards from becoming disasters. Through collaborative partnerships among community groups, non-profits, the private sector, cities, counties, tribal, state, and federal government Oregon has spent millions of dollars on often innovative mitigation projects that have, in turn, saved tens of millions of dollars in disaster damages and an incalculable number of lives. I hope to illuminate the importance of mitigation since it seldom makes headlines and consequently it not as exciting to talk disasters.

Mitigation in Oregon

Oregon is an incredibly diverse state with a rugged coastline, agricultural valleys, urban areas, alpine mountains, temperate rainforest, and high deserts. In addition to the human-caused hazards facing Oregon, the hazard profile outlined in our state hazards mitigation plan is equally diverse, including:

- Coastal Hazards
- Droughts
- Dust Storms
- Earthquakes
- Floods
- Landslides
- Tsunamis
- Volcanoes
- Wildfires
- Windstorms
- Winter Storms

Our most frequent hazard in Oregon is wildfire, and our most costly hazard is flood. Some hazards impact in Oregon go unnoticed because they are handled at the local level and never warrant requests for assistance. Other hazards can overwhelm local and even state capabilities requiring federal assistance to effectively respond and recover. Even so, Oregon has received federal emergency assistance relating to most of the hazards listed above.

One specific hazard rises above the rest in terms of planning efforts and potential impacts: the Cascadia Subduction Zone. This fault, which runs from northern California to British Columbia, has historically shown the capacity to generate 9.0 magnitude quakes resulting in 5 minutes of shaking followed almost immediately by tsunami waves reaching 50 to 100 feet in height. A 9.0 quake could also produce dozens of aftershocks, some reaching 7.0 or 8.0 in magnitude.

Mitigating against a hazard like this is daunting. In fact, the United States has not experienced an earthquake of this size in its written history. Oregon is currently taking steps – some imperceptible, others very visible – toward reducing the impact this hazard will have on the Pacific Northwest, the country, and the world.

The Oregon Resilience Plan

In 2013, Oregon released of the Oregon Resilience Plan. The goal was to create a plan that reviews policy options, summarizes relevant reports and studies by state agencies, and makes recommendations on policy direction to protect lives and keep commerce flowing before and after a Cascadia earthquake and tsunami. The plan clearly articulates the risks associated with Cascadia and proposes dozens of recommendations over a 50-year period to reduce the impact of this event.

The Plan is based on the premise that a 9.0 quake could cause 10,000 casualties, over $30 billion in direct economic losses, some parts of Oregon to be without electricity for six months, and the hardest hit areas to be without drinking water and wastewater utilities for up to three years.

Part of the Plan outlines preparedness recommendations. For example, Oregon recently became the first state in the country to change standard preparedness messaging from the typical 72-hours of emergency supplies recommendation to encouraging Oregonians to be prepared to be self-sufficient following a disaster for at least two weeks based upon a recommendation from the Plan. Most recommendations, however, fall clearly into the mitigation mission area. These recommendations include:

- Seismically upgrading lifeline transportation routes into and out of major business centers statewide by 2030
- Developing a seismic rating system for new buildings to incentivize construction of buildings more resilient than building code compliance requires and to communicate seismic risk to the public
- Requiring all water and wastewater agencies to complete a seismic risk assessment and mitigation plan as part of periodic updates to facility plans

Federal Mitigation Grant Funds in Oregon

Oregon has a long history of leveraging federal mitigation funds, regardless of the program or hazard, to reduce the impact of when the ground moves, the water flows, or the wind blows. Programs like the Pre-Disaster Mitigation Grant Program (PDM), Hazard Mitigation Grant Program (HMGP), Flood Mitigation Grant Program (FMA) and others have all been used to reduce the vulnerability of lives, property, the economy, and the environment to naturally-occurring and human caused hazards.

Disaster Recovery Mitigation Funds (406 Mitigation)

In February 2016, Oregon received what we believe will be our second largest federal disaster declaration on record, Major Disaster Declaration DR-4258, for a unique, consecutive series of severe winter weather, flooding, and landslides that had occurred the previous December. FEMA

selected Oregon to pilot a re-engineered public assistance program that came with more FEMA staff than would be expected on a $40 million dollar disaster. Some of the additional staff included mitigation specialists who worked with local, tribal, and state mitigation staff to conduct thorough reviews of each of the nearly 200 permanent repair public assistance projects. They looked for opportunities to include mitigation that permanent repair work. To date, 66% of all permanent repair work associated with DR-4258 will have 406 mitigation work tied to it. This is an incredibly high percentage nationally and record-setting for a disaster in Oregon. The federal share of this mitigation work was nearly $700,000. The estimated benefit of that work was $10 million, far exceeding the often-cited 3:1 benefit ratio. Our mitigation staff in Oregon and those we work with at FEMA Region 10 have a passion for the work they do, and with each disaster they make it a point to touch base with previous beneficiaries of mitigation work to see how that work fared in more recent emergencies or disasters. This, helps to inform smart practices allowing the entire state to benefit from an assessment of mitigation project efficacy in real-world conditions. It is our hope that FEMA continues to advocate for 406 mitigation inclusion on permanent repairs, post-disaster, wherever feasible. When a Public Assistance disaster is declared, FEMA sends teams of PA specialists to the state to assist with disaster paperwork. A similar approach to HMGP would likely facilitate the identification of mitigation projects earlier in the process and expedite approvals, which can sometimes be lengthy.

Since one of Oregon's largest federal disaster declarations, DR-1733, which occurred in 2007 the City of Vernonia in Columbia County, Oregon has leveraged $23 million dollars in HMGP and Flood Mitigation Assistance, as well as millions of dollars in Public Assistance mitigation funds, and local and state dollars to reduce that community's ongoing flood risk. In December 2015, same region experienced a similar rains event to the 2007 storm, but little damage occurred in Vernonia. The Vernonia city administrator attributed the minimal damage in large part to the mitigation efforts of the previous eight years.

Pre-Disaster Mitigation Grants (PDM) and Flood Mitigation Assistance Grants (FMA)

In 2015, Oregon received more than $500,000 through the PDM grant program to fund a public-private partnership between the City of Portland and a Portland-based non-profit, Enhabit, to provide financial assistance to seismically retrofit homes owned predominantly by lower-income earners. It is the goal of the project to retrofit single-family homes by securing the framing to the foundation for up to 150 homes through this grant, with half of the costs coming from the PDM grant and the other half from the homeowners. If successful, future Oregon PDM funding requests will likely include expansions of this program.

In Oregon, FMA is used primarily to acquire and demolish or acquire and relocate properties that are considered "repetitive loss" or "severely repetitive loss" properties. Over $17 million dollars was spent as a result of a FMA award from 2009 to relocate the entire Vernonia School Campus (K-12) out of the floodplain in Vernonia. The school campus had a long history of very serious, repetitive flooding going back more than 100 years prior to the acquisition and relocation project proposed under FMA 2009. With the federal funding awarded through FMA and significant other financial resources, the Vernonia School District constructed a new school campus in Vernonia well above the 500-year flood elevation. The new school campus opened in September

2012 for the school year. Final site restoration at the former schools' campus continued into early September 2014 when all disturbed ground was hydro-seeded to fulfill the converted Spencer Park function, and a historical monument was installed to mark the original site of the school campus and inform residents of flood hazard. This school has not been impacted by flooding, despite historic rain in recent years, since the campus relocation.

Oregon currently has at least one project in our state impacted by the administrative hold FEMA has placed on FY16 PDM and FMA grants while awaiting additional guidance from the administration. The Cow Creek Band of Umpqua Tribe of Indians had received, signed, and returned their PDM award documentation before being notified of the nationwide administrative hold. This grant award is needed for the Tribe's to update their hazard mitigation plan. If the hold is not released soon, the lack of the grant could cause the tribe to be determined ineligible to receive HMGP disaster funds following future disasters until their plan is updated and approved. This could create a disastrous cycle of repetitive losses due to unmitigated hazards if delays in funding plan development and updates are allowed to continue, especially when the delay is entirely outside of the grantee's control and is, instead, placed there by FEMA.

Hazard Mitigation Grant Program (HMGP)

Oregon prides itself on our low rate of de-obligating un-spent Hazard Mitigation Grant Program awards. Historically, very few HMGP dollars, if any, are reverted back to FEMA following disasters. Oregon's approach to prioritizing HMGP-eligible projects and ensuring a long list of applicants is a large part of that success. Oregon uses a statewide Interagency Hazard Mitigation Team (IHMT) comprised of multiple state agencies that not only maintains the state hazard mitigation plan, but also assists in prioritizing projects to receive HMGP and other dollars. While HMGP funds are typically able to fund projects statewide, Oregon first focuses those funds on the impacted jurisdictions from the disaster declaration that led to the HMGP award. Emphasis is also placed on mitigating the specific hazards that caused the HMGP-awarding disaster. Once eligible projects meeting those criteria are exhausted the IHMT considers project applications from other parts of the state to mitigate against other hazards.

In collaboration with our local and tribal partners, Oregon has leveraged PDM and HMGP dollars with local match requirements of up to 25% to develop or revise dozens of hazard mitigation plans through the University of Oregon's Community Service Center's Oregon Partnership for Disaster Resilience (OPDR) and with support from the Oregon Department of Land Conservation and Development. The practical and technical expertise housed within the OPDR allows lessons learned and smart practices to be applied to mitigation planning and project efforts statewide.

2015 Management Assistance Grant (FMAG) HMGP Pilot

Late in 2015, FEMA announced catastrophic wildfires receiving Fire Management Assistance Grant (FMAG) declarations would also receive HMGP funds up to $441,000 per FMAG fire for states like Oregon with enhanced-status state mitigation plans. The award of HMGP funds following FMAG fires was the proverbial double-edged sword. Although there had been calls for years to tie mitigation funds to catastrophic wildfires, these unexpected awards (six for Oregon

totaling more than $2.6 million) initially overwhelmed Oregon's small mitigation program staff. Since Oregon does not typically receive HMGP funds for wildfire-related disasters, and the requirements for this pilot project were very specific to wildfire mitigation, Oregon did not have a go-to list of eligible projects causing delays from the onset. However, our FEMA Region 10 partners allowed us to continue working with applicants until we reached the point where we are today: each dollar of the FMAG HMGP money has been tied to a wildfire mitigation project, pending approval by FEMA.

Some of those projects include:

- Expanding the Douglas Forest Protection Association wildfire camera network allowing quicker identification and precision location of wildfire starts in southwestern Oregon
- The purchase and installation of stream gauges to provide earlier warning of potential floods due to water run-off from burn-scarred, hydrophobic soil areas
- Emergency generators for rural fire stations to allow continued operations during wildfires when grid power may be impacted

Oregon recommends a further expansion of HMGP funds tied to catastrophic wildfires, like FMAG-declared fires. We see them annually in the western United States and have begun to see them more frequently in other parts of the country. I would also ask that FEMA work with other federal agencies such as the United States Department of Agriculture, United States Forest Service, and Bureau of Land Management to identify more consistent approaches to mitigating wildfires and rehabilitating burn scars. One frustration experienced in Oregon is the inconsistency in burned area rehabilitation efforts based almost exclusively on funding stream. Federal agencies rehabilitating burned federal land had much greater latitude to use non-native plants, for example, to restore a burned hillside and reduce erosion and run-off, where similar projects using FMAG HMGP dollars were limited to native plants and more rigorous environmental reviews. Again, despite some initial challenges, this pilot was very successful in Oregon. Although a similar pilot was not funded in 2016, I remain hopeful it will be funded through future appropriations.

Other important federal grants that are used for mitigation through public education and outreach:

- National Tsunami Hazard Mitigation Program (NTHMP): In 2016, Oregon used NTHMP funds to develop and implement a project called the "Oregon Blue Line" project that allowed the physical placement of a blue stripe, similar to white stripes seen at crosswalks, to signify the safety zone for tsunami evacuations. Although "blue lines" can be seen in other parts of the world to denote tsunami evacuation zones, this was the first such effort in the United States. This grant funded Blue Lines in four Oregon communities: Florence, Reedsport, Coos Bay, and Gold Beach. I am hopeful that additional funding will be available to bring this initiative to more communities along Oregon's coast. NTHMP funding is authorized through the Tsunami Warning and Education Reauthorization Act (TWERA). Oregon strongly advocates continued future reauthorizations of the TWERA to support vital tsunami research, education, and outreach initiatives.

- National Earthquake Hazards Reduction Program (NEHRP): In 2013, the Oregon Office of Emergency Management partnered with Dark Horse Comics in Milwaukie, Oregon, to produce a comic book educating the public about the risks associated with the Cascadia Subduction Zone. This book, "Without Warning: Earthquake," tells the story of an Oregon teen who reunites with her family following a Cascadia quake. In 2016, Oregon used NTHMP funds to create a second book in partnership with Dark Horse, "Without Warning: Tsunami." This story chronicles a mother/daughter camping trip on the Oregon coast when an earthquake and resulting tsunami strike. The duo stays safe and helps others in danger. This unique public/private partnership with Dark Horse Comics has resulted in creative platforms that help emergency managers in Oregon connect with our communities in a unique, innovative, and entertaining way.

- Homeland Security Grant Program (HSGP) and the Emergency Management Performance Grant Program (EMPG): Both of these programs have been used to create effective public information, messaging, training, and outreach initiatives. Cuts of 25% to these grants have been identified in the President's recently released budget blueprint, and new non-federal match requirements may be enacted. These cuts would severely impact emergency management program capability, capacity, and staffing levels to engage in the cost-effective mitigation work we are discussing today.

Other initiatives, like a fully funded earthquake early warning system along the entire west coast of the United States, could provide a tremendous return on investment towards mitigating the impacts of earthquakes, especially when combined with robust public education and outreach initiatives. The U.S. Geological Survey (USGS) along with a coalition of state and university partners is developing and testing an earthquake early warning (EEW) system called ShakeAlert for the west coast. Long term funding must be secured before the system can begin sending general public notifications, however, some limited pilot projects are active and more are being developed.

Oregon's Seismic Rehabilitation Grant Program

In 2009, Oregon introduced the state-funded Seismic Rehabilitation Grant Program, aimed at providing up to $1.5 million to schools and emergency service facilities such as hospitals, 9-1-1 and emergency operations centers, and fire and police stations to seismically retrofit these critical facilities. The program mandates that schools receiving these funds be retrofitted to, at a minimum, Life Safety standards, meaning that a building may be damaged beyond repair during an earthquake but people will be able to safely exit the building. Emergency service facilities must be retrofitted to the Immediate Occupancy standard meaning that not only will the building remain standing after an earthquake but emergency services will be able to continue to operate and provide services. Oregon uses the standards defined by the American Society for Civil Engineers.

Last week, Governor Kate Brown announced that 100 schools and 47 emergency service facilities have collectively been awarded $153.5 million in state funds for FY 15-17. Since 2009, this program has awarded $108 million to 118 school and emergency service facilities across Oregon.

FEMA's proposed Disaster Deductible and Mitigation

FEMA's recently released Supplemental Advance Notice of Proposed Rulemaking outlining FEMA's efforts to reduce the cost of disasters to the federal government while encouraging mitigation and other hazard- and risk-reducing initiatives has been reviewed by myself, my staff, and many emergency managers throughout Oregon. Our comments have been provided to FEMA and generally align with the comments provided by the National Emergency Management Association, of which Oregon is a member. All levels of government should consider strategies to reduce the overall impact and costs of disasters. The primary concerns that the emergency management community in Oregon has expressed about the deductible, as described to this point, are the increased administrative burden for states to document their deductible credits and, if necessary, make appeals to what is expected to be an annual process. Oregon is also concerned about the inability to consider local mitigation efforts and expenditures towards the deductible. Throughout this testimony I have highlighted many projects, some utilizing federal grant funds, to mitigate against Oregon's hazard profile. Dozens more mitigation projects happen throughout Oregon each year, often at the local level, which bears responsibility for much of the infrastructure being improved, and we believe those efforts should be taken into account when a state "buys down" its deductible. The deductible concept proposes states can reduce their deductible through eligible, state-funded mitigation work, with every dollar of mitigation work buying down three dollars of a state's deductible. For Oregon, this would mean documenting approximately $8 million in eligible mitigation costs once our maximum deductible of $24 million is reached. With state-funded initiatives like the Seismic Rehabilitation Grant Program, we believe Oregon would have little difficulty buying down our entire deductible without reducing federal disaster response and recovery costs.

If FEMA decides to move forward with this concept, I would ask that FEMA use a "soft launch" to run concurrently with the present threshold model for perhaps three years and assess what the actual savings would be over that three-year stretch (as well as state and federal costs to manage this process), before deciding whether or not this radical shift in managing disasters will achieve the stated goal of lowering disaster recovery costs.

Conclusion

Visit any region, state, tribe, county, parish or community and you'll see hazard mitigation happening. It may be building or land use codes, it may be storm water management, it may be defensible space for wildfire, or it may be public education and outreach.

In Oregon, our focus is on the threat of Cascadia and the devastating subduction earthquake and subsequent tsunamis and aftershocks that the fault will produce, quite probably in my lifetime, if not in my career. Cascadia is not just an Oregon concern. It isn't just a Pacific Northwest concern. It is a national, and even international concern. My introduction to emergency management was standing on my roof in the east village of Manhattan a few minutes before 9 am on September 11, 2001, watching as one of the World Trade Center towers burned and a commercial airliner slammed into the other tower and explode in a fireball out of the other side. Until that time, I don't think I had even taken a first aid class. That moment changed me, as it

changed so many of us in so many different ways. I wanted to never experience something like that again and began working towards a career aimed at preventing disasters. I make it a point to regularly review the 9/11 Commission Report, and one chapter always jumps out at me. Chapter 8. "The System was Blinking Red."

Mr. Chairman, members of the subcommittee, when it comes to Cascadia, the system is blinking red. Cascadia is not a "no-notice" event. We have notice. It's coming. Like tornadoes and hurricanes, we cannot engineer our way out of these hazards occurring. But we can armor up our infrastructure, take personal actions to prepare, and provide our citizens with the tools they need to educate themselves about a threat and be alerted when one is imminent. In addition to the efforts shared today to reduce the impacts of floods, fires, and storms, Oregon is doing what we can to mitigate against the threat of Cascadia, but we need help if we are going to prevent it from being a disaster of the magnitude predicted.

I thank you for the opportunity to testify before you today.

Building a 21st Century Infrastructure for America: Mitigating Damage and Recovering Quickly from Disasters

Statement of

Fire Chief John Sinclair
President and Chairman of the Board

presented to the

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. House of Representatives

April 27, 2017

INTERNATIONAL ASSOCIATION OF FIRE CHIEFS
4025 FAIR RIDGE DRIVE • FAIRFAX, VA 22033-2868

Good morning, Chairman Barletta, Ranking Member Johnson and members of the subcommittee. I am Chief John Sinclair, fire chief of the Kittitas Valley Fire and Rescue department in Ellensburg, Washington, and president and chairman of the board of the International Association of Fire Chiefs (IAFC). The IAFC represents approximately 12,000 leaders of the nation's fire, rescue and emergency services. Thank you for the opportunity to testify today about the importance of mitigating damage and recovering quickly from disasters.

The local fire department is an all-hazards response force that must provide fire suppression; emergency medical response; hazmat response; multicasualty/civil unrest/terrorism response; urban search and rescue; train-derailment response; and technical, high-angle, swift-water building-collapse, confined-space and deep-trench rescue. During times of crisis, the local fire department serves as the closest thing to government that provides service to the victims, their communities, their families and their friends.

The IAFC is concerned by the increasing number of disasters in the United States. For example, the average number of disaster declarations issued from 1960 to 1969 was approximately 19 per year. The number of declarations has escalated to 67 per year from 2010 to 2014 with a record 99 major disaster declarations in 2011.[1]

In addition, the intensity and costs of national disasters and emergencies continues to increase. For example, the average annual cost of federal wildland fire-suppression operations from 2009 to 2012 was $1.25 billion. For the following four years, the average annual cost increased to $1.84 billion, a 32% increase.[2]

In addition, the nation still faces a major fire problem. During 2015, more than 1.3 million fires were reported. These fires resulted in more than 3,200 deaths and more than 15,000 civilian fire injuries. They also resulted in $14.3 billion in property damage.[3]

The nation must take steps to reduce the costs of fires, national disasters and emergencies. To achieve this goal, we can take common-sense steps to mitigate the risk of disasters, ensure an effective emergency response and even engage in post-disaster mitigation to prevent future disasters.

The Importance of Mitigation

The IAFC supports efforts to mitigate the effects of fires, floods, tornadoes and other windstorms, hurricanes, earthquakes, acts of terrorism, and other natural and human-made disasters. Communities can take physical actions to protect themselves and develop plans and educational programs to help citizens prepare themselves from the threat of disasters.

The IAFC recommends that states and communities adopt model residential and commercial building and fire codes as a way to mitigate the risk of disasters. These codes are developed

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[1] Bruce R. Lindsay and Francis X. McCarthy, "Stafford Act Declarations 1953-2014: Trends, Analyses, and Implications for Congress," Congressional Research Service, July 14, 2015, p.11.
[2] https://www.nifc.gov/fireInfo/fireInfo_documents/SuppCosts.pdf.
[3] http://www.nfpa.org/news-and-research/fire-statistics-and-reports/fire-statistics

using a consensus-driven process in which fire protection officials, engineers, architects, construction experts and all other interested parties discuss how to develop safer structures. These codes provide basic requirements for the design and construction of a building as well as the necessary fire protection. The fire and emergency service also participates in the development of these codes to ensure that the buildings are safe for both the public and first responders.

The adoption of current building and fire codes has been proven to prevent the tragic loss caused by extreme weather and natural disasters. For example, the World Bank reported that the "1988 earthquake in Armenia had half the energy release of the 1989 earthquake in Loma Prieta near San Francisco, California, and yet caused 25,000 deaths compared to 100 in San Francisco.[4]"

In 2003, similarly powerful earthquakes occurred in Bam, Iran and Paso Robles, California. The earthquake in California killed two people, while the one in Iran killed 41,000. The World Bank reported that the "strict adherence to tough zoning and building codes" in California was responsible for the lives saved.[5]

In addition, the Insurance Institute for Business and Home Safety (IBHS) found that the adoption of high-wind provisions in residential buildings reduced damage to houses in Florida. After Hurricane Charley in 2004, the claim frequency for houses built after 1996 (when Charlotte County, Florida, enacted high-wind standards) was reduced by 60 percent and the claims were 42 percent less severe when a loss occurred.[6] Because of this evidence, the IAFC recommends that Congress take steps to encourage states to adopt model building codes.

Communities also can take steps to reduce the risks caused by natural and human-made disasters and emergencies. With the assistance of the U.S. Forest Service, the IAFC runs the "Ready, Set, Go!" (RSG) Program. Using RSG resources, local fire departments help residents develop mitigation plans (Ready), teach them to be situationally aware (Set) and to act early, following their Personal Wildland Fire Action Plans should there be a need to evacuate (Go). There currently are 1,729 RSG members nationwide, including 20 in Pennsylvania, 41 in Georgia and 57 in Oregon.

It is important to recognize that mitigation planning can be adapted for all-hazards. For example, the Barnegat Volunteer Fire Department near the New Jersey Pine Barrens was a long-time RSG member. The fire department spent more than 2,000 hours educating its communities in how to create defensible space, maintain situational awareness and develop evacuation plans in the case of wildland fires. When Hurricane Sandy struck in 2012, the fire department worked with the police department and used its RSG planning to successfully evacuate the community.

In addition, the nation must invest in its infrastructure to protect communities from disasters. On August 1, 2007, the 1-35W Mississippi River Bridge collapsed in Minneapolis, killing 13 people and injuring 145. The nation also has witnessed fires that damaged the Oakland-San Francisco

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[4] Charles Kenny, *Why Do People Die in Earthquakes? The Costs, Benefits and Institutions of Disaster Risk Reduction in Developing Countries*, The World Bank, January 2009, pp. 2-3.
[5] Ibid.
[6] "Hurricane Charley: Natural Force vs. Structural Strength," Institute for Business and Home Safety, 2012, p. 5.

Bay Bridge in California in 2007 and the I-85 bridge in Atlanta, Georgia, in March. These fires snarled transportation systems and required a fire service response. It is important that infrastructure be strengthened and transportation systems be made resilient, especially to mitigate the risk of major disasters or emergencies.

Ensuring an Effective Emergency Response

An effective emergency response is key to reducing the damage from a disaster or emergency and ensuring an effective recovery. For example, the sooner a wildland fire is extinguished, the less damage it can do. Federal, state, tribal/territorial and local partners all have important roles to play in an effective response.

Experienced leadership is critical to an effective response. The IAFC would like to see experienced leaders with fire and emergency service leadership and emergency-management experience appointed to leadership positions at the Federal Emergency Management Agency (FEMA) and the U.S. Fire Administration (USFA). The last two FEMA administrators, R. David Paulison and W. Craig Fugate, transformed the agency based on their experience at the local and state levels. The Post-Katrina Emergency Management Reform Act (P.L. 109-295) set specific requirements for the FEMA Administrator, including a "demonstrated ability in and knowledge of emergency management and homeland security" and at least five years of management experience. The IAFC recommends that that FEMA Administrator, the Deputy Administrator, the Assistant Administrators and the U.S. Fire Administrator all meet these criteria. In addition, the FEMA leadership should understand the roles of state and local partners during national emergencies.

At the local level, it is also important to have experienced leadership. The USFA's National Fire Academy (NFA) provides education for the next generation of fire service leaders. During my career, I have seen the fire service evolve from extinguishing fires to becoming responsible for all-hazards response. The NFA has trained more than 1.4 million students since 1975. It includes both in-person and electronic courses to help fire service leaders adapt to the new missions that they face. It is important that Congress pass legislation to reauthorize funding for the USFA and NFA to ensure that the NFA remains the nation's premier fire and EMS educational institution.

An adequately trained, staffed and equipped local fire department is a key component of an effective response. Local fire departments usually are the first to arrive on scene at a major disaster or emergency and the last to leave. In addition, local fire departments play a key role in the National Preparedness System, where Fire Management and Suppression has been identified as a core capability of the National Preparedness Goal. When local communities require interstate or intrastate aid, they rely on local fire departments across the nation to provide aid through the Emergency Management Assistance Compact (EMAC), state mutual-aid plans or local mutual-aid plans. If local fire departments do not have adequate staffing and assistance, the National Preparedness System breaks down.

As the National Fire Protection Association's (NFPA) *Fourth Needs Assessment of the U.S. Fire Service* demonstrates, there are serious deficiencies in the preparedness of the nation's fire and emergency service:

- Sixty percent of all fire departments (that answered the NFPA survey) respond to hazmat incidents, but have not formally trained their personnel to handle them.[7]
- Fifty-three percent of all departments cannot equip all firefighters on a shift with self-contained breathing apparatus (SCBA).[8]
- Almost three-quarters (72%) of departments reported that some of their personal protective clothing was at least 10 years old, which exceeds the life-cycle of the equipment.[9]
- Fifty percent of all departments do not have enough portable radios to equip all emergency responders on a shift.[10]

The Assistance to Firefighters Grant (AFG; also, known as the FIRE) program and the Staffing for Adequate Fire and Emergency Response (SAFER) program provide matching grants to help local fire departments meet their basic needs and improve their capabilities to respond to all hazards. For example, my department received AFG funding in 2006 and 2007 to purchase personal protective equipment and SCBAs. We used these grants to replace 20-year-old turnout gear, which had exceeded its 10-year service life. In addition, the purchase of new SCBAs allowed us to replace an old system with the current, contemporary gear that neighboring departments had. The equipment helped us regionalize our local fire and emergency service and improve our interoperability.

The AFG and SAFER Grant programs are authorized through the end of Fiscal Year (FY) 2017. The IAFC requests that Congress pass legislation this year to reauthorize funding for these programs. In addition, we are concerned about the sunset provision in each program's authorizing statute, which would eliminate the programs in early January. We ask Congress to remove this sunset date to ensure that the programs can continue to support America's fire and EMS departments.

The State Homeland Security Grant Program (SHSGP) and the Urban Areas Security Initiative (UASI) primarily are aimed at terrorism response, but also support all-hazards preparedness. The programs use federal funds as an incentive for fire, EMS, law-enforcement, public-health, and other federal, state, tribal/territorial and local agencies to plan and exercise together. Whether an act of terrorism, a hurricane or a major wildland fire, it is important for the key decision makers to have planned, trained and exercised together before the event. Because of the beneficial role that these programs play in all-hazards response, we are concerned by potential cuts to these programs in FY 2018.

In addition, the IAFC recommends that Congress continue to fund the Urban Search and Rescue (USAR) System. The USAR teams are located across the nation and possess critical skills in responding to both natural disasters and acts of terrorism. These specialized teams have received

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[7] "Fourth Needs Assessment of the U.S. Fire Service: Conducted 2015 and Including Comparisons to the 2001, 2005, and 2010 Needs Assessment Surveys", National Fire Protection Association, November 2016, p. viii.
[8] "Fourth Needs Assessment of the U.S. Fire Service: Conducted 2015 and Including Comparisons to the 2001, 2005, and 2010 Needs Assessment Surveys", National Fire Protection Association, November 2016, p. xii.
[9] Ibid.
[10] Ibid.

international acclaim for the lifesaving aid that they provide to desperate communities. We thank the committee for passing legislation last year to provide necessary legal authorization for these teams.

It also is important that fire and EMS departments are reimbursed in a timely manner after interstate mutual-aid deployments. When a state requests fire and rescue response through the EMAC, local communities send their firefighters and apparatus to respond. These costs are borne by the communities until they are reimbursed. If a community must wait years for reimbursement through the complicated federal/state process, local leaders will face fiscal challenges requiring them to stretch budgets, raise taxes or take on debt until the community finally is reimbursed. The IAFC recommends that Congress direct FEMA to review the reimbursement process for mutual-aid deployments to ensure that local communities are reimbursed in a timely manner.

The IAFC also recommends that FEMA work with the states to ensure that they have strong mutual-aid systems. Every day, local communities use mutual-aid agreements between neighboring communities to provide emergency response at incidents, including large fires, traffic accidents and hazmat spills. Statewide systems can help to provide resources effectively as the states request and provide aid through interstate compacts of the EMAC system. Having a strong mutual-aid system in place is not only cost-effective; it is also essential to the preservation of life and property.

Training also is a vital component to an effective response system. The increasing transportation of alternative fuels, Bakken crude oil and other hazardous materials is a serious issue. The IAFC supports efforts to improve training to meet these risks. For example, Congress created the Assistance for Local Emergency Response Training grant program in FY 2015 and FY 2016 to support web-based and in-person training for local fire departments (especially rural and volunteer departments) that must be prepared for rail-based hazmat incidents. As the president and Congress consider legislation to improve the nation's infrastructure, the IAFC asks that you also consider funding for training to help fire and EMS departments prepare to respond the various risks that travel along our nation's highways, rails, waterways and airways every day.

Authorizing Critical Post-Disaster Mitigation

Communities can use the recovery period to mitigate the risks of future disasters. For example, after a wildland fire, a community may still suffer from landslides or floods, due to the heavily burned land and lack of vegetation. In addition, the threat of future fires remains if adequate mitigation is not performed.

The IAFC continues to support legislation to mitigate these risks after wildland fires. We supported language in last year's FEMA Disaster Assistance Reform Act (H.R. 1471), which would allow states that receive Fire Management Assistance Grants also to receive hazard mitigation funding. FEMA-funded projects, such as the establishment of erosion barriers and reseeding burned land, will help communities recover more quickly from wildland fires and prevent future disasters. This legislation has been reintroduced as the standalone Wildfire

Prevention Act (H.R. 1183). The IAFC asks the subcommittee to consider and pass this bipartisan legislation.

Conclusion

I thank you for the opportunity today to testify about the importance of mitigating damage and recovering quickly from disasters. It is important to recognize that predisaster mitigation activities, preparedness planning and an effective response play major roles in achieving this goal.

Effective, physical mitigation efforts, including the adoption of model building codes, will create structures that are strong enough to protect the public from all-hazards. Community preparedness planning, including education and efforts by individual families, can help protect the whole community and streamline necessary public-evacuation efforts. In addition, effective post-disaster mitigation efforts can help a community prepare for the next disaster. Federal programs and grants can provide necessary resources to assist in these efforts.

An effective response also will reduce casualties and property damage and speed recovery. An effective response requires experienced leadership. In addition, it requires an effective national-preparedness system with well-trained, -staffed and -equipped local assets. The federal government supports the national response system through policies, grants and training that have improved our ability to respond to all hazards.

As the new Administration and the new Congress examine how to reduce the damage and cost of disasters, it is important to remember Ben Franklin's axiom that "an ounce of prevention is worth a pound of cure."

Learning from the tragedies of 9/11 and Hurricane Katrina, the federal government has made strategic investments to improve the nation's ability to prepare for and respond to all hazards. We recommend that Congress continue to support these efforts to keep America safe.

Statement

of

Mark Berven

President/COO, Property & Casualty Operations

Nationwide Mutual Insurance Company

on behalf

of the

BuildStrong Coalition

to the

United States House of Representatives

Committee on Transportation and Infrastructure

Subcommittee on Economic Development, Public Buildings and Emergency Management

Hearing on

Building a 21st Century Infrastructure for America: Mitigating Damage and Recovering Quickly from Disasters

April 27, 2017

Introduction

Chairman Barletta, Ranking Member Johnson, and members of the Subcommittee, thank you for inviting me to testify at today's important hearing. My name is Mark Berven, and I am the President and Chief Operating Officer of Nationwide Property and Casualty Operations. Nationwide is a founding and executive committee member of the BuildStrong Coalition, on whose behalf I am testifying today.

The Coalition, created in 2011 to respond to an increasing number of severe disasters, is made up of firefighters, emergency responders, insurers, engineers, architects, contractors and manufacturers, as well as consumer organizations, code specialists, and many others committed to building the nation's homes and businesses more resiliently.

Over the last 85 years, Nationwide Mutual Insurance Company has grown from a small mutual auto insurer owned by our members to one of the largest insurance and financial services companies in the world. While we are still owned by our members, we protect more than just cars. We offer our members a full range of insurance products and financial services across the country, and are the nation's 7th largest writer of homeowners insurance, 7th largest commercial insurer, and 8th largest auto insurer. Nationwide is also the nation's leading insurer of farms and ranches. At Nationwide, part of our commitment to our members is to find ways to prevent losses.

Nationwide has been a member of the National Association of Mutual Insurance Companies (NAMIC) since its inception, and I currently serve on the Board of Directors of NAMIC. NAMIC is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies representing 39 percent of the total insurance market. NAMIC member companies, which serve more than 170 million policyholders and write more than $230 billion in annual premiums, range in size from one person operating a farm mutual in a single county to national and globally active insurers providing a wide array of comprehensive commercial and personal lines coverages.

The insurance industry plays a unique and critical role in the disaster mitigation and recovery process, serving as a leader in promoting pre-disaster loss-prevention techniques, and standing shoulder to shoulder with the federal government and emergency responders to make victims whole after a catastrophe. In 2016 alone, Nationwide paid $17.2 billion in claims and other benefits to its members.

Both Nationwide and the BuildStrong Coalition are very appreciative of this subcommittee's focus on disaster preparedness and salute the leadership of Chairman Barletta in seeking ways to reduce federal disaster losses. As part of this effort, the Chairman conducted an important series of roundtables during the last Congress that helped identify how a national strategy for investing in disaster mitigation can help address our nation's increasing number of severe and costly weather events.

But while progress has been made, serious concerns remain surrounding the federal government's current approach to pre-disaster mitigation, which has left communities across the nation vulnerable ahead of the next storm. In the face of an unsustainable, and fast-rising post-disaster federal cost share, the Coalition is calling for President Trump and Congress to use the opportunity of improving infrastructure to make America's homes and businesses more resilient by creating a National Mitigation Investment Strategy designed to lessen the impact of catastrophes. I look forward to discussing the policies that make up these important reforms in further detail today.

Natural Disasters: A Growing Problem

Natural catastrophes are increasing in frequency and severity at an alarming rate. For instance, between 1976 and 1995, there were an average number of 39 yearly federal disaster declarations.[1] This number skyrocketed to 121 between 1996 and 2015, during which we experienced Hurricane Katrina and Superstorm Sandy, the two most destructive weather events in U.S. history, which killed over 2,000 people and caused a combined $225 billion in property damage.[2] And just last year, the U.S. experienced the second-highest number of billion-dollar weather events since data began being recorded, including massive flooding in Louisiana and in the Southeast following Hurricane Matthew.[3] Ultimately, the 4 billion-dollar inland flood events during 2016 doubled the previous record.[4]

As the U.S. endures a higher number of costly disasters, taxpayers are left picking up an increasing share of the tab. Already the largest payer of post disaster costs, having spent nearly $1 trillion on disaster recovery since 1983, taxpayers in recent years have been tasked with covering almost all of the federal government's post-disaster costs.[5] To illustrate just how much the disaster landscape in the U.S. has changed over the years, in 1955, after Hurricane Diane caused significant damage to the coast of South Carolina, the federal government paid 5 percent of the recovery efforts. By 2005, following Hurricane Katrina, that number had risen to 50 percent, and in 2012, taxpayers were left to pay for a massive 77 percent of the recovery efforts following Superstorm Sandy.[6] The dangerous trajectory of our nation's post-disaster cost curve lends itself to an unsustainable model that ultimately puts Americans at risk.

The Power of Resilient Construction

Research has shown time and again that uniform statewide adoption and enforcement of model building codes helps eliminate long-term risks affecting people, property, the environment, and ultimately the economy. A 2016 study from The Wharton School at

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[1] https://www.fema.gov/disasters/grid/year.
[2] https://www.ncdc.noaa.gov/billions/events/US/1980-2017.
[3] https://www.ncdc.noaa.gov/billions/.
[4] *Id.*
[5] *Id.*
[6] E. MICHEL-KERJAN, RETHINKING GOVERNMENT DISASTER RELIEF IN THE U.S.: EVIDENCE AND A WAY FORWARD, THE WHARTON SCHOOL, UNIVERSITY OF PENNSYLVANIA (Oct. 2015).

the University of Pennsylvania shows that homes built using the Florida Building Code after it was updated in 2000 suffer 38 percent lower losses than homes built prior to 2000, equating to a reduction of $8.4 billion from a projected $22 billion in future losses.[7] And the Louisiana State University Hurricane Center estimated that stronger building codes would have reduced wind damage in the state from Hurricane Katrina by 80 percent, saving $8 billion and preserving homeowner's property.[8]

Through the cutting edge scientific research of the Insurance Institute for Business & Home Safety (IBHS), we know that the IBHS FORTIFIED Home™ program, which applies to both new and existing structures, is proven to help strengthen homes from hurricanes, high winds, and hail, resulting in significantly less damage from natural disasters. The IBHS FORTIFIED standard is based upon the latest science and engineering research conducted by IBHS, and the program also requires on-site inspections to assure that FORTIFIED technical requirements are correctly incorporated into new and existing homes. At its world-class Research Center, IBHS conducts research on building performance under realistic severe weather conditions (simulating wind, driving rain, hail, and wildfire) in controlled environments, and their findings have repeatedly demonstrated that cost-effective mitigation can help diminish long-term risks affecting people, property, the environment, and, ultimately, the economy.

Beyond the science, however, is the real-life evidence to support the benefits of mitigation. Prior to Hurricane Ike in 2008, there were 13 homes built to the IBHS FORTIFIED standard on the Bolivar Peninsula, just north of Galveston, Texas.[9] After the storm, there were ten FORTIFIED homes still standing, which were virtually the only homes on the Peninsula that survived and could be repaired (three were knocked down by wind-borne debris from other houses, not by storm surge or high winds).

A Backwards Approach to Disaster Preparedness

Even knowing the power of resilient building and despite multiple studies that show that every $1 spent on preventative mitigation saves taxpayers $4 in disaster relief, in recent years FEMA has taken a reactive posture to disasters.[10] The agency spends far more on rebuilding after the catastrophe instead of proactively preparing communities before the next storm.[11] From 2011 to 2014, FEMA spent 14 times more on post-disaster

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[7] KEVIN SIMMONS, JEFFREY CZAJKOWSKI, JAMES M. DONE, ECONOMIC EFFECTIVENESS OF IMPLEMENTING A STATEWIDE BUILDING CODE: THE CASE OF FLORIDA, RISK MANAGEMENT AND DECISION PROCESSES CENTER, THE WHARTON SCHOOL, UNIVERSITY OF PENNSYLVANIA (May 2016).

[8] MARC C. LEVITAN, CAROL HILL FRIEDLAND, AND T. ERIC STAFFORD, RESIDENTIAL WIND DAMAGE IN MISSISSIPPI: POTENTIAL HURRICANE DAMAGE REDUCTION THROUGH IMPROVED BUILDING CODES AND BUILDING PRACTICES, LOUISIANA STATE UNIVERSITY HURRICANE CENTER (2006).

[9] Information provided by the Insurance Institute for Business and Home Safety.

[10] NATIONAL INSTITUTE OF BUILDING SCIENCES (2005) NATURAL HAZARD MITIGATION SAVES: AN INDEPENDENT STUDY TO ASSESS THE FUTURE SAVINGS FROM MITIGATION ACTIVITIES. VOL. 1.

rebuilding measures, rather than those centered on increasing resiliency before disasters, allocating just $222 million to the Pre-Disaster Mitigation Program compared to $3.2 billion to the post-disaster, Hazard Mitigation Grant Program.[12]

But it isn't just the agency's misallocation of dollars within its mitigation that leaves communities vulnerable to the next storm. Rather, a larger issue is at play. From 2004 to 2013, FEMA spent a massive 89 times more on post-disaster assistance than pre-disaster mitigation.[13] Victims of catastrophes should always be put back on their feet in the aftermath of a disaster. But the fact that FEMA would invest such a small amount to prepare communities before the next storm while doling out billions in post-disaster assistance because of the fact communities are left unprepared, only adds further evidence the agency needs a wholesale change in approach. Why do we spend billions of dollars to rebuild communities back the same way just to be destroyed again at the next storm, when we know how to build them so they can survive the next catastrophe?

Creating a Moral Hazard for States and Individuals

The increasing reliance on taxpayers to cover post-disaster losses has created a moral hazard. Because they have every reason to assume the post-disaster bill will be covered by the federal government, just 13 states have currently adopted and are enforcing model building codes.[14] This means that the vast majority of the nation is stuck in an "endless cycle of destruction" where homes and businesses are built back after a disaster to the same subpar standards that led to their destruction.

The growing role of the federal government in financing post-disaster costs isn't just creating a moral hazard for states and local governments. The dangerous, but ever-pervasive, false assumption that FEMA has a never-ending supply of cash to cover the cost of post-disaster recovery is discouraging individuals from adequately protecting themselves from loss or liability that could be suffered during a catastrophe. This will ultimately create a larger pool of victims that are uninsured and dangerously exposed to financial loss during the next disaster. As two of the largest stakeholders in the aftermath of a catastrophe, both the insurance industry and federal government have a shared interest in reducing damage and losses from disasters, and this starts with ensuring members and policyholders are protected. We have the science and ability to do better, but we need smarter policy that creates the right incentives and behaviors.

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[12] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFCE (2015) HURRICANE SANDY: AN INVESTMENT STRATEGY COULD HELP THE FEDERAL GOVERNMENT ENHANCE RESILIENCE FOR FUTURE DISASTERS. Rep. GAO-15-515. Available online: http://www.gao.gov/products/GAO-15-515.

[13] United States. Cong. Senate. Committee on Appropriations Subcommittee on Commerce, Justice, and Science. Hearing on National Water Hazards & Vulnerabilities: Improved Forecasting for Response & Mitigation Apr. 4, 2017. 115th Cong. 1st sess. (statement of Bryan Koon, Director, Florida Division of Emergency Management, Former President, National Emergency Managers Association), available here https://www.appropriations.senate.gov/download/040417-koon-testimony.

[14] According to the latest available data, 13 states have adopted and are enforcing model codes in line with the 2009 or later version of the Internatonal Code Council's model codes.

Correcting Course Through a National Mitigation Investment Strategy

Preventative reforms will help save lives, dramatically reduce damage, and reduce the cost of recovery for taxpayers. Unfortunately, the federal disaster system is fragmented and heavily skewed towards reactive post-disaster mitigation spending rather than thoughtful long-term investing. Congress must reexamine the balance between pre-and post-disaster spending, and incentivize states to exit the "cycle of destruction," by adopting a National Mitigation Investment Strategy.

The BuildStrong Coalition is calling on the Trump Administration to include the reforms that constitute the National Mitigation Investment Strategy in the President's proposed infrastructure package, and will be working closely with members of Congress to build support for a such a plan. The Strategy is made up of a package of reforms designed to decrease the reliance on the federal government to cover the cost of disasters, which will ultimately make America's homes and businesses more resilient.

1. ***Incentivizing States to Build Resiliently***
   First, since the federal government is failing to incentivize states, communities, and individuals to invest in pre-disaster mitigation, leaving so many communities stuck in the endless cycle of destruction, we are calling on Congress to reverse this trend by giving states a reason to do the right thing before the storm. This policy would incentivize states to adopt and enforce nationally recognized model building codes for residential and commercial structures by making available an additional 4 percent of funding in FEMA post-disaster grants for states that do so.[15]

2. ***Equipping Communities with New Tools for Mitigation***
   Since the vast majority of U.S. disaster dollars are spent reactively post-disaster instead of proactively to reduce overall disaster impact, we must leverage the cost saving power of pre-disaster mitigation by shifting significant federal resources from being employed in a reactive, post-disaster setting, to being invested ahead of the disaster. This can be accomplished by first clarifying that the development and enforcement of state building codes are eligible uses under the existing Pre-Disaster Mitigation Program, and then creating a new National Hazard Mitigation Grant Program (NHMGP). The NHMGP will allocate funds for the development, implementation, or enforcement of approved building codes and other cost-effective mitigation purposes. As part of this important reform, 10 percent of all funds appropriated for the existing, post-disaster Hazard Mitigation Grant Program would be allocated to the new NHMGP, where funds will be available without regard to whether a disaster occurred, and can be used towards strengthening the nation's homes and businesses.

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[15] The additional 4 percent in funding would be allocated to states through FEMA's Hazard Mitigation Grant Program.

3. ***Equipping States with New Tools to Enforce Resiliency***
   Since many states that have adopted model building codes don't have an adequate amount of resources to operate a robust inspection regime, we are calling for Congress to give communities new tools for enforcement by clarifying that "essential assistance" available to communities after disasters includes funds for the development and enactment of enforceable statewide building codes.

4. ***Reforming the Federal Cost-Share***
   Given the unsustainable, and fast-rising post-disaster federal cost share, action must be taken to protect our states and communities, thereby reducing the dependence on taxpayers. We can achieve this measurable reform by adjusting the federal minimum cost share following a major disaster based upon adoption of FEMA-approved resilient mitigation plans and adoption and enforcement of statewide building codes. Specifically, we are calling for the current 75 percent federal minimum cost share to decrease to 60 percent for states that fail to take resilient mitigation actions and do not adopt a statewide building code, and to increase to 80 percent for states that have taken resilient mitigation actions and have adopted a statewide building code.

5. ***Streamlining FEMA Assistance Programs***
   Increasingly, victims of disasters are going without assistance after a storm since assistance is distributed by 19 federal agencies, which frequently tie the funds to projects around the nation. We are calling for the federal government to more efficiently respond to victims after a disaster by consolidating ad-hoc federal disaster assistance programs under FEMA and requiring projects to meet cost-benefit standards.

Conclusion

Chairman Barletta, Ranking Member Johnson, and members of the subcommittee, thank you again for holding today's hearing on this important topic. Unfortunately, we see the impact of catastrophes on our members through the loss of their loved ones, the emotional distress of seeing everything they have worked for gone in minutes, and the loss of being able to provide security and protection for their families. On top of this, some communities never recover from a disaster. They lose jobs, their tax base, and their ability to provide services to the community. It doesn't have to be this way.

In the face of an increasing number of severe catastrophes, it is critical that we ensure our nation's homes and businesses are built resiliently to withstand the devastating impacts of Mother Nature. As Congress and the President work together to improve our nation's infrastructure, we urge lawmakers and the Administration to adopt a national strategy for investing in disaster mitigation, which will save lives, property, and billions in taxpayer dollars. I look forward to answering any questions you may have.

RICK SCOTT
GOVERNOR

July 6, 2016

The Honorable Barack H. Obama
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Through: Gracia Szczech, Regional Administrator
FEMA Region IV
Atlanta, GA 30341

RE: Request for Federal Emergency Declaration
Lake Okeechobee Discharges

Dear Mr. President:

As a result of the increased water levels in Lake Okeechobee, the U.S. Army Corps of Engineers ("USACE") has been pumping billions of gallons of water east into the Indian River Lagoon and west into the Caloosahatchee River since earlier this year. These water releases are a contributing factor in the development of toxic algae blooms in the St. Lucie Estuary at the southern end of the Indian River Lagoon and potential algae blooms in the Caloosahatchee River in the future.

On June 29, 2016, after an increased presence of toxic algae blooms in the Indian River Lagoon, I issued Executive Order 16-155, which declared a state of emergency in Martin and St. Lucie Counties.

On June 30, 2016, with the potential of toxic algae blooms to spread, I issued Executive Order 16-156, which expanded Executive Order 16-155 to include Lee and Palm Beach Counties.

It is the federal government's sole responsibility to maintain and repair the federally operated Herbert Hoover Dike. Consequently, any damage caused by the unnecessary water releases due to the federal government's lack of appropriate maintenance of the Dike is the federal government's responsibility. If the federal government would have properly funded the maintenance and repair of the Dike,

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then the USACE could have properly maintained and repaired the Dike and ensured the Dike was structurally sufficient to the USACE own standards; thus, the USACE could have better managed the release of billions of gallons of water. The USACE predicts they have the ability to hold lake elevations up to 18 feet, yet because of inadequate maintenance and repair of the Dike, as a result of inadequate federal funding, the lake has been holding water at substantially lower elevations of 12.5 to 15.5 feet. Now, as a result of their releases, there is toxic algae which has caused environmental and economic devastation. The federal government has ignored proper maintenance and repair to this structure for more than a decade and has put our state in this vulnerable position.

Therefore, under the provisions of Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"), as implemented by 44 C.F.R. § 206.35, I request that you declare a federal emergency due to the public health and safety threats associated with the unnatural discharges of nutrient-laden freshwater from Lake Okeechobee into the canals that flow east into the Indian River Lagoon and west into the Caloosahatchee River.

Because I make this request under 44 CFR §206.35(d), the requirements of 44 CFR §206.35(a) through (c) should not apply.

Federal Emergency Declaration

An Emergency Declaration is appropriate when federal emergency assistance is needed to:

- Protect public health and safety;
- Save lives;
- Protect property; and/or,
- Lessen or avert the threat of a disaster or catastrophe.

Federal Responsibility

44 C.F.R. § 206.35(d) allows the President to declare a federal emergency under the Stafford Act when "an emergency exists for which the primary responsibility rests in the federal government because the emergency involves a subject area for which,

under the Constitution or laws of the United States, the federal government exercises exclusive or pre-eminent responsibility and authority."

No Other Meaningful or Effective Federal Assistance

To the extent that the authority to respond to the current emergency lies with the USACE, and to the extent that the USACE does not need a Presidential declaration in order to respond to the threat, I assert that "there are significant unmet needs of sufficient severity and magnitude, not addressed by other assistance, which could appropriately be addressed under the Stafford Act." 44 CFR §206.37(d).

Put simply, the USACE's hands are tied. Without adequate funding to maintain and repair the Herbert Hoover Dike, the USACE has no choice but to discharge water from Lake Okeechobee. Unfortunately, this situation fails to provide any meaningful assistance to the millions of Floridians currently coping with the ongoing public health and safety emergency.

Conclusion

Based on the foregoing, I request that you declare a federal emergency and use the full resources of the federal government to eliminate the public health and safety threats associated with the unnatural discharge of nutrient-laden freshwater from Lake Okeechobee into the canals that flow east into the Indian River Lagoon and west into the Caloosahatchee River.

I have designated the Director of the Florida Division of Emergency Management as the State Coordinating Officer for this emergency. He is authorized to provide any further information, assurances, requests, or justification on my behalf.

Sincerely,

Rick Scott
Governor

U.S. Department of Homeland Security
500 C Street, SW
Washington, DC 20472

FEMA

July 15, 2016

The Honorable Rick Scott
Governor of Florida
State Capitol
Tallahassee, Florida 32399

Dear Governor Scott:

This is in response to your July 6, 2016, request for an emergency declaration for the State of Florida due to concerns you raised about the discharges of nutrient-laden water from Lake Okeechobee into the canals that flow east into the Indian River Lagoon and west into the Caloosahatchee River. You indicated that these water releases are a contributing factor in the development of toxic algal blooms in the St. Lucie Estuary and of potential future blooms in the Caloosahatchee River.

Based on our review of all of the information available, it has been determined that supplemental federal assistance under the Stafford Act is not appropriate for this event. Therefore, I must inform you that your request for an emergency declaration is denied.

We understand that other Federal agencies, including the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency, have been working together with the State of Florida on water management efforts which may help address algae blooms in the long term. We encourage your continued work with these agencies.

This denial may be appealed within 30 days after the date of this letter. Any appeal pursuant to 44 CFR § 206.46, along with additional information justifying the appeal, should be submitted to the President through Gracia B. Szczech, Regional Administrator, FEMA Region IV, located at 3003 Chamblee Tucker Road, Atlanta, Georgia 30341.

Sincerely,

W. Craig Fugate
Administrator

RICK SCOTT
GOVERNOR

August 14, 2016

The Honorable Barack H. Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Through: Gracia Szczech, Regional Administrator
FEMA Region IV
3003 Chamblee-Tucker Road
Atlanta, GA 30341

Re: Appeal of Denial of Request for Federal Emergency Disaster Declaration
Herbert Hoover Dike – Lake Okeechobee Discharges – The Federal Government's Failure to Maintain and Repair the Herbert Hoover Dike – Lake Okeechobee has caused a Public Health and Safety Emergency

Dear Mr. President:

By this letter, the State of Florida appeals the July 15, 2016, denial of the July 6, 2016, request for a Federal Emergency Declaration due to the public health and safety threats associated with the compromised structural integrity of the Herbert Hoover Dike ("Dike"). I am extremely disappointed the federal government has elected to poorly maintain and repair the Herbert Hoover Dike – Lake Okeechobee. This appeal is timely under 44 C.F.R. § 206.46(a). We are appealing based on the following four reasons:

• The failure by the federal government to maintain and repair the Dike is the emergency. The compromised structural integrity of the Dike creates the threat of a breach, which leads to the discharges and harmful impacts to Florida estuaries.

• Because the condition of the Dike is a Federal responsibility that demands a Federal solution, Florida requested a Federal Emergency Declaration. However, FEMA applied the wrong standard and incorrectly faulted Florida for failing to demonstrate the need for assistance for a state emergency. This is not needed under the request Florida applied for.

• FEMA suggested that Florida seek assistance from Environmental Protection Association (EPA). However, the EPA does not have the authority to expend any funds to repair the Dike. If there is any confusion on the EPA's authority to expend such funds, I would appreciate the opportunity to schedule a call to eliminate any confusion.

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• Currently, it does not appear that the United States Army Corps of Engineers (USACE) could ever bring the Dike in-line with modern construction standards based off of the anticipated funding provided by the federal government.

The Request

On July 6, 2016, I requested a Federal Emergency Declaration under section 501(b) of the Stafford Act so that the President could use "the full resources of the Federal government to eliminate the public health and safety threats associated with the unnatural discharge of nutrient-laden freshwater from Lake Okeechobee into the canals that flow east into the Indian River Lagoon and west into the Caloosahatchee River estuary."

Although I referenced the disasters occurring in the coastal estuaries to the east and the west of Lake Okeechobee (the "Lake"), I directly tied those disasters to the compromised structural integrity of the Dike. On pages two and three of the request, I specifically wrote:

• "The federal government has ignored proper maintenance and repair to this structure for more than a decade and has put our state in this vulnerable position."

• "Put simply, the USACE's hands are tied. Without adequate funding to maintain and repair the Herbert Hoover Dike, the USACE has no choice but to discharge water from Lake Okeechobee. Unfortunately, this situation fails to provide any meaningful assistance to the millions of Floridians currently coping with the ongoing public health and safety emergency."

The Denial

On July 15, 2016, the Administrator of FEMA signed a letter indicating that the President denied Florida's request for a Federal Emergency Declaration. In the letter, the Administrator expressed his opinion that:

• "[S]upplemental federal assistance under the Stafford Act is not appropriate for this event."

• "We understand that other Federal agencies, including the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency, have been working together with the State of Florida on water management efforts which may help address algae blooms in the long term. We encourage your continued work with these agencies."

Bases for the Denial

After the denial of the Federal Emergency Declaration, a FEMA official provided additional information regarding the denial:

• Florida has enough money to handle the Treasure Coast algae crisis on its own and without federal help;

• Florida failed to prove the state isn't able to handle the "severity and magnitude" of the blooms in its request for a federal emergency declaration; and,

• "The state of Florida is the (fourth) largest state in the nation with a population of almost 20 million people," and therefore has a "robust capability to respond to emergencies and disasters."

Based upon the comments by the Washington, D.C., FEMA official as well as the text of the denial letter, it appears that Federal Emergency Declaration request was denied for the following, two reasons:

• FEMA officials incorrectly believe that, when making a request for a Federal emergency under section 501(b) of the Stafford Act, the governor of a requesting state must satisfy the requirements of section 501(a) of the Stafford Act; and,

• Meaningful or effective assistance is available from other Federal agencies.

The Appeal

In support of Florida's request to reconsider the denial of the Federal Emergency Declaration, this appeal will focus on three arguments: (1) the compromised structural integrity of the Herbert Hoover Dike is the emergency by causing harmful discharges; (2) a 501(b) request for a Federal emergency does not require any demonstration that supplementary Federal emergency assistance is necessary to cope with a disaster that has overwhelmed the response capabilities of state and local governments; and, (3) for this emergency, no meaningful assistance is available from any other Federal agency.

1. The Compromised Structural Integrity of the Herbert Hoover Dike is the Emergency by causing harmful discharges.

The algae blooms occurring in the Indian River Lagoon and the Caloosahatchee River estuary represent a symptom of a much larger problem, namely: the compromised structural integrity of the Herbert Hoover Dike ("Dike").

The compromised structural integrity of the Dike creates the threat of a breach, which leads to the unnatural discharges of nutrient-laden freshwater, which leads to the destruction of the coastal estuaries. Therefore, the present condition of the Dike is the emergency.

Federal Government's Failure to Properly Maintain the Dike

In response to the 1928 "Okeechobee Hurricane", Congress authorized the USACE to construct the system of levees now known as the Herbert Hoover Dike. Yet by the USACE's own admission, the original methods used to construct the Dike "would not be acceptable today." Furthermore, the USACE acknowledges that the Dike "will not withstand sustained high lake levels." Consequently, the USACE firmly believes that the Dike requires urgent repairs in order to:

- "[M]inimize risks to public safety";
- "[P]rovide an increased level of economic, social and environmental security in the region";
- "[R]educe the risk of economic damages to the south Florida agricultural industry"; and,
- "[Reduce the risk of] catastrophic impacts to the Everglades."

As proof of their sense of urgency, the USACE assigned the Dike a Dam Safety Action Classification of Level 1 – a designation of "Very High Urgency" reserved for "Dams where progression toward failure is confirmed to be taking place under normal operations and the dam is almost certain to fail under normal operations within a time frame from immediately to within a few years without intervention; or, the combination of life or economic consequences with probability of failure is extremely high."

The Unnatural Discharges Reduce One Threat Only to Create Another

In order to reduce the threat of a breach for the Lake communities, the USACE discharges nutrient-laden freshwater into the canals that flow to the coastal estuaries. Yet, these unnatural releases do not eliminate the threat of a breach; they only reduce it. Meanwhile, the large volume of Lake water, even if clean, destroys the native flora and fauna that depend on a natural cycle of alternating fresh and saltwater. Furthermore, when that Lake water contains

high levels of algae, the discharges create a significant threat to the public health and safety of neighboring communities. Thus, in exchange for reducing the threat of a breach for the Lake communities, the discharges destroy the natural environment of the coastal estuaries and create a public health and safety emergency for the neighboring communities.

EPA Cannot Fix the Dike or Stop the Discharges

Given its limited role, EPA cannot alleviate the immediate public health and safety threats facing the Lake and coastal communities.

With regard to the Dike itself, EPA cannot expend any of its own funds to repair the structure. Without a Federal Emergency Declaration, only USACE can expend funds to repair the Dike.

With regard to the discharges, EPA exercises little, if any, regulatory authority over USACE operations. USACE regulations determine Lake Okeechobee operations; additionally, USACE, not EPA, decides how much nutrient-laden freshwater is released into the canals that flow east and west into the coastal estuaries. Furthermore, EPA cannot rely on National Pollution Discharge Elimination System ("NPDES") permits to regulate the discharges from Lake Okeechobee because EPA previously concluded through rulemaking that the Clean Water Act's NPDES permit system does not cover non-point source pollution that passes through a dam or system of locks. See Friends of Everglades v. S. Florida Water Mgmt. Dist., 570 F.3d 1213 (11th Cir. 2009); see also 40 C.F.R. §122.3(i) ("The Water Transfer Rule"):

The following discharges do not require NPDES permits... Discharges from a water transfer. Water transfer means an activity that conveys or connects waters of the United States without subjecting the transferred water to intervening industrial, municipal, or commercial use. This exclusion does not apply to pollutants introduced by the water transfer activity itself to the water being transferred.

But see Catskill Mountains Chapter of Trout Unlimited, Inc. v. U.S. E.P.A., 8 F. Supp. 3d 500 (S.D.N.Y. 2014), appeal pending, Catskills Mountains Chapter of Trout Unlimited et al. v. EPA, case no. 14-1823 (2d. Cir.).

2. A 501(b) request for a Federal emergency does not require any demonstration that supplementary Federal emergency assistance is necessary to cope with a disaster that has overwhelmed the response capabilities of state and local governments. If you disagree, I would like a conference call with all interested parties to resolve the confusion.

The July 6, 2016 Request Was a Request for a Federal Emergency, not a Request for Supplemental Assistance for a State Emergency.

In the July 6, 2016, letter, the State of Florida specifically requested a Federal Emergency Declaration under section 501(b) of the Stafford Act; Florida did not request supplemental assistance under section 501(a) for a state emergency. On page two of that request, I specifically wrote:

Therefore, under the provisions of Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"), as implemented by 44 C.F.R. § 206.35, I request that you declare a Federal emergency...

As expressly noted in the letter, a 501(b) request does not require any demonstration that effective response is beyond the capability of State and local governments. And on page two of that letter, I explained the reason behind the lack of any information pertaining to the deployment of State and local resources: "Because I make this request under 44 CFR §206.35(d), the requirements of 44 CFR §206.35(a) through (c) should not apply."

Indeed, on the same day that Florida submitted its request for a Federal Emergency Declaration, a FEMA official from the Region IV office in Atlanta, Georgia, confirmed in an email that the submission of FEMA Form 010-0-13, which incorporates the requirements of 44 CFR §206.35(a) through (c), is not required for a 501(b) request. In that email, he specifically stated: "We don't believe [FEMA Form 010-0-13] is required for a 501(b) request."

Despite the clarity of section 501(b) of the Stafford Act, FEMA officials in Washington, D.C., nonetheless faulted the State of Florida for failing to demonstrate the need for supplemental assistance under section 501(a). In the denial letter, the Administrator stated that "supplemental Federal assistance under the Stafford Act is not appropriate for this event." And, subsequent to the denial, FEMA stated that Florida failed to prove the state isn't able to handle the "severity and magnitude" of the blooms in its request for a federal emergency declaration.

Both statements, however, are incorrect because they apply the wrong set of standards to Florida's request for a Federal Emergency Declaration. Instead of applying section 501(b), it appears that FEMA applied 501(a). In order to help clarify how the two types of emergency declaration requests differ, I provide the following overview.

Two Types of Emergencies: Federal and State

The Stafford Act authorizes the President to declare an emergency in either of the following, two occasions: (1) the Governor of a State requests a declaration (State emergency); or, (2) the incident falls under the primary responsibility of the Federal government (Federal emergency).

State Emergency

Section 501(a) of the Stafford Act states:

All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.

Because a 501(a) declaration requires a request from the Governor of the affected state, these types of declarations are sometimes described as "State emergencies." For these types of requests, the Governor must demonstrate that the situation:

• "Is of such severity and magnitude that effective response is beyond the capability of the State and the affected local government(s); and

• "Requires supplementary Federal emergency assistance to save lives and to protect property, public health and safety, or to lessen or avert the threat of a disaster."

44 C.F.R. 206.35(b).

Federal Emergency

Section 501(b) of the Stafford Act states that the President can declare an Emergency "when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority."

Important to note, anyone can bring a Federal Emergency to the attention of the Federal Government. As stated in 44 C.F.R. §206.35(d), "Any party may bring the existence of such a situation to the attention of the FEMA Regional Administrator."

If the Governor of a state brings a Federal problem to the attention of the Federal government by submitting a request for a Federal Emergency, then the requirement to demonstrate that the emergency response is beyond the capability of State and local governments does not apply. As 44 C.F.R. §206.35(d) clearly states:

The requirement for a Governor's request under paragraph (a) of this section can be waived when an emergency exists for which the primary responsibility rests in the Federal government because the emergency involves a subject area for which, under the Constitution or laws of the United States, the Federal government exercises exclusive or preeminent responsibility and authority.

Because a 501(b) declaration does not require a request from the Governor of the affected state, and because such declarations are only appropriate if an incident falls under the primary responsibility of the Federal government, these types of declarations are sometimes described as "Federal emergencies."

The capability of state and local governments to respond to an emergency remains wholly irrelevant when the Governor of a state requests a Federal Emergency under section 501(b). With that type of request, a state is not asking the Federal government to help assist with a local problem. Rather, the state is identifying a Federal responsibility and asking the Federal government to fix it.

In this case, Florida did not ask for supplemental assistance from the Federal government in order to deal with a State or local emergency; instead, Florida asked that the Federal government assume primary responsibility for an emergency that Federal government created, namely: the compromised structural integrity of the Herbert Hoover Dike. Therefore, nothing in the Stafford Act (or the implementing regulations) required Florida to demonstrate that supplementary Federal emergency assistance was necessary to cope with a disaster that overwhelmed the response capabilities of state and local governments.

3. For this emergency, no meaningful assistance is available from any other Federal agency.

FEMA's Suggestion

In the denial letter, the Administrator of FEMA encouraged the State of Florida to work with the USACE and EPA. Yet, as I mentioned in the original request, USACE's cannot provide meaningful assistance because its hands are tied by inadequate funding and limited support. Similarly, EPA has no meaningful assistance to provide; it cannot fix the Dike or stop the harmful discharges. Furthermore, the GAO recently concluded that FEMA has ignored Congressional mandates and neglected its responsibilities regarding levee safety. Ultimately, FEMA's suggestions demonstrate an unwillingness to address the public health and safety threats created by continued, Federal inaction.

No Effective Federal Plan and No Meaningful Federal Support for the USACE to Fix the Dike

The progress by the Federal government to fund the maintenance and repair of the Dike has been inadequate. Although some small repairs have been completed, USACE's hands are tied by limited funding to fully repair the structure which is needed. Consequently, the majority of the USACE's current efforts remain centered around unnatural releases of nutrient-laden freshwater into canals that flow east into the St. Lucie River estuary and west into the Caloosahatchee River estuary. The USACE accelerated those releases after an unusually strong El Niño weather pattern brought heavy rainfall to the region this past winter. The USACE has continued those releases in order to lower Lake levels in advance of the peak of Hurricane Season. Yet, as demonstrated above, those releases only reduce the threat of a breach for the Lake communities; additionally, they create additional public health and safety threats for the coastal communities. Therefore, despite its desire to alleviate those threats, USACE cannot provide any meaningful assistance at this time.

EPA Cannot Alleviate the Threats Posed by the Dike

In order to respond to the current emergency, FEMA suggests that Florida seek assistance from EPA. This suggestion, however, fails to account for EPA's limited role in regards to this emergency. As documented above, EPA cannot fix the Dike or stop the discharges. Thus, as with USACE, EPA cannot offer any meaningful, immediate assistance in addressing the public health and safety threats facing the Lake Okeechobee and coastal estuary communities.

GAO Report Demonstrates Inaction by FEMA on Levee Safety

Just last month, the U.S. Government Accountability Office ("GAO") published a report entitled "LEVEE SAFETY: Army Corps and FEMA Have Made Little Progress in Carrying Out Required Activities." In the report, GAO names USACE and FEMA as "the two principal federal agencies with authorities related to levee safety." Yet, GAO concluded in the report that: "The U.S. Army Corps of Engineers (Corps) and the Federal Emergency Management Agency (FEMA) have made little progress in implementing key national levee-safety-related activities required in the Water Resources Reform and Development Act of 2014."

According to the GAO report, the Water Resources Reform and Development Act of 2014 "requires the Corps and FEMA to take the lead on certain national levee-safety-related activities, including establishing voluntary national levee-safety guidelines and providing financial and technical incentives to nonfederal stakeholders to take various actions to promote levee safety."

Despite these requirements, GAO concluded that FEMA has taken little, if any, action:

FEMA officials we interviewed stated that the agency would need additional appropriations to carry out the agency's main responsibility under the act—providing assistance for a state and tribal levee safety program—and told us that the agency had not received any funding directed toward national activities required by the act. They also said that even if these activities were funded, the agency would need additional staffing resources—specifically, in its 10 regional offices—to carry out requirements under the act. As of this report, FEMA has one staff person who is available part-time to implement the national levee-safety-related activities required by the act.

Thus, at a time when Congress mandated that FEMA play a larger role in levee safety, FEMA apparently has refused to commit meaningful resources to address the issue.

Unlike FEMA, USACE expressly recognized the significant risks associated with compromised levees, dikes, and dams. In its report, GAO specifically mentions USACE's acknowledgment of those risks:

Agency officials identified resource constraints as a primary reason for their lack of progress in implementing [key national levee-safety-related activities required in the Water Resources Reform and Development Act of 2014], and Corps officials said that not implementing these activities could potentially result in safety risks and federal financial risks for disaster relief, among other impacts.

Unfortunately, the GAO report does not mention any acknowledgment by FEMA of those risks.

Conclusion

The federal government has sole responsibility for the maintenance and repair of the Herbert Hoover Dike. As long as the Federal government continues to ignore its responsibility for the compromised structural integrity of the Herbert Hoover Dike, Florida will continue to face public health and safety threats. If as a result of Federal inaction the condition of the Dike fails to improve, then USACE will be left with no choice but to continue releasing nutrient-laden freshwater east into the Indian River lagoon and west into the Caloosahatchee River estuary. In order to stop the perpetuation of this Federal problem, I ask that the President grant Florida's appeal and declare a Federal Emergency.

Sincerely,

Rick Scott
Governor

Enclosures: Request for Emergency Declaration
FEMA Denial Letter

U.S. Department of Homeland Security
500 C Street, SW
Washington, DC 20472

FEMA

August 25, 2016

The Honorable Rick Scott
Governor of Florida
State Capitol
Tallahassee, Florida 32399

Dear Governor Scott:

This is in response to your August 14, 2016, appeal for the President to declare an emergency declaration under section 501(b) of the Stafford Act to address the Herbert Hoover Dike.

After a thorough review of all the information contained in your initial request and appeal, we reaffirm our original findings that supplemental federal assistance under the Stafford Act is not appropriate for this event. Therefore, I must inform you that your appeal for an emergency declaration is denied.

Sincerely,

W. Craig Fugate
Administrator