The Confederated Tribes of the Colville Reservation

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COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

OVERSIGHT HEARING ON "FEMA REAUTHORIZATION: RECOVERING QUICKER AND SMARTER"

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Good morning Chairman Barletta, Ranking Member Carson, and members of the Subcommittee. On behalf of the Confederated Tribes of the Colville Reservation ("Colville Tribes" or the "CCT"), I thank you for this opportunity to testify today. My testimony will focus on the Colville Tribes' experience and observations working with FEMA following a weather-related disaster on the Colville Reservation last summer, as well as on recommendations for the Subcommittee and FEMA to consider going forward.

Before I begin, I would first like to express the Colville Tribes' appreciation to this Subcommittee for its work in amending the Stafford Act to allow Indian tribes to make requests for Presidential Disaster Declarations (PDDs) directly, without going through states. Indian country sought this authority for many years, and we are grateful that you included it in the Sandy Recovery Improvement Act, which became law earlier this year.

BACKGROUND ON THE COLVILLE TRIBES

Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is, as the name states, a confederation of twelve aboriginal tribes and bands from across the plateau region of the Northwest and extending into Canada. The present-day Colville Reservation is approximately 1.4 million acres and occupies a geographic area in north central Washington State that is slightly larger than the State of Delaware. The reservation includes portions of both Okanogan and Ferry counties. The Colville Tribes has more than 9,500 enrolled members, making it one of the largest Indian tribes in the Pacific Northwest. About half of the CCT's members live on or near the Colville Reservation, which has more than 800,000 acres of forest land. Forestry and wood products have been the CCT's traditional sources of revenue.

THE JULY 2012 DISASTER IN KELLER

In July 2012, the Colville Indian Reservation suffered a disaster in the form of a major wind storm and flash flooding that toppled trees, destroyed power lines and tribal infrastructure, and blocked or damaged roads over an area of several hundred thousand acres. In some areas, winds

exceeded 100 miles per hour. Although damage occurred reservation-wide, the community of Keller was most heavily affected by the storm. Homes were lost or damaged, and residents with undamaged homes were left without power for an extended period and lost most or all of their refrigerated and frozen foods. The community water infrastructure was damaged by uprooted trees, and rural residents outside of the Keller community were without power for even longer.

The CCT government responded to the emergency and provided food, water, and shelter to the affected people until normal services were restored. The CCT also supported ranchers whose livestock water supplies were interrupted by the extended power outage. This disaster gave us a fresh view of the ability—or inability, as the case may be—of both FEMA and the Bureau of Indian Affairs (BIA), an agency within the Department of the Interior, to respond to and assist tribal governments in meeting the emergency needs of their people.

Long in advance of the Keller disaster, the CCT requested financial assistance for the necessary FEMA-compliant emergency planning. The Colville Tribes, like many other governments, has never been able to afford full-time emergency management staff to deal with planning and FEMA issues. We received no help from either FEMA or the BIA. The CCT therefore contracted and paid, out of its own limited resources, for the development of an emergency management plan. The CCT adhered to this draft plan during the Keller disaster even though not all components of it were yet completed.

When the Keller disaster struck, the CCT requested emergency assistance in the first instance from the BIA. The only assistance we received, after the initial emergency was under control, came from regional BIA forestry staff to assess with timber damage. Although the BIA had a well-qualified regional emergency management specialist, he controlled neither funding nor staff and was unable to provide any assistance beyond moral support.

The FEMA rules and regulations to qualify for federal disaster assistance and to determine what disaster costs are reimbursable when a PDD is issued are complex and, in some cases, contradictory. Accordingly, the CCT also requested that FEMA Region X provide technical assistance to help us navigate the complex FEMA regulatory scheme. The personnel that FEMA provided, while well-meaning, had little experience working with Indian tribes and were not in a position to provide us with prompt answers to our questions.

In contrast, the State of Washington's Emergency Management Division provided outstanding support. They helped us by finding refrigerator trucks to store food, a portable shower unit, even a portable laundry unit for residents who had no clean clothing. The CCT had to pay for those units, but having someone find and dispatch them for us at a time when we were busy beyond belief was a significant help. The State also provided—without cost to the Tribes—the technical assistance we requested but never received from FEMA. We received accurate answers to our questions, help to track both the damage and our expenses in a form acceptable to FEMA, and both timely and accurate advice about complex debris management and emergency assistance issues.

Because the Keller disaster occurred before the tribal amendments to the Stafford Act became law, the CCT worked with the State of Washington to ensure that the state included damage to the Colville Reservation as part of its request for a PDD. The State submitted its request on September 7, 2012, and the PDD was issued on September 25, 2012. As issued, the PDD included the Colville Reservation.

Following issuance of the PDD, tribal employees returned to their normal jobs. Unfortunately, FEMA documentation imposed a significant workload on the CCT. Immediately after the disaster, the full-time efforts of three employees were required to assemble the records and requests for reimbursement. Even now, one year after the event, FEMA imposes a significant burden on our staff to submit the periodic reports and to respond to FEMA's requests for financial data.

OBSERVATIONS AND RECOMMENDATIONS FROM THE KELLER DISASTER

The CCT offers the following observations and accompanying recommendations for the Subcommittee to consider as it works with FEMA to implement the tribal amendments to the Stafford Act and prepares for a general reauthorization of FEMA programs during the coming year.

(1) Make Resources Available to Tribes for Tribal Emergency Management Personnel

Since Tribes cannot rely solely on either FEMA or the BIA to assist them in times of emergency, the solution is to help Tribes themselves adequately prepare for disasters. Tribes need to grow their own emergency management expertise. It is not enough to send tribal members to FEMA-sponsored and supported training, which is the current FEMA model. Those people return to their normal jobs as soon as the immediate needs of a disaster response are over.

Instead, Tribes need the funding to hire and train people as Emergency Managers. We need staff trained and experienced in emergency management who can learn the FEMA rules and regulations that apply during disasters, and who remain in that role year-round. We need staff whose full-time job is to plan for, operate during, and handle the administrative follow-up work required for managing the tribal response to disasters. The CCT encourages the Subcommittee to explore this issue in future reauthorizations of FEMA programs.

(2) Improve Coordination with Other Federal Agencies

During the Keller disaster, the BIA had a fire management base filled with useful supplies only a few miles away. BIA policy does not allow supplies and equipment purchased through the fire management program, or employees paid by that program, to assist with disaster response. Tribal emergency responders were driving by a government warehouse complex that contained the very ice chests, portable generators, fuel, and other supplies that were sorely needed, but which BIA employees were forbidden by policy from dispensing.

Similarly, the National Interagency Fire Center (NIFC), the national wildfire coordinating entity at the Department of the Interior, is equipped and ready to ship, on a moment's notice, many of the supplies we needed. However, the Department of the Interior has never set up an accounting system to allow tribal governments to order, even at tribal expense, the portable radios, temporary radio repeaters, generators, and other materials they keep in stock. We desperately needed a temporary radio system of the type that NIFC keeps on the shelf, but we were unable to get one for the Keller disaster.

The CCT recommends that existing memoranda of understanding or other protocols that may be in effect between FEMA and the Department of the Interior be reviewed to ensure that they are being implemented effectively. If these protocols or agreements are currently in place, we encourage FEMA to begin working with the Department of the Interior to ensure that these on-the-ground issues that the CCT experienced are not repeated during the next disaster on tribal lands.

(3) Provide Flexibility in Debris Management and Other FEMA Rules

FEMA's debris management rules are a good example of its confusing rules. The debris management rules appear to have been written with floods, hurricanes, and tornadoes in mind. They do not take into account the realities of rural communities or tribal communities, specifically the need to clear timber debris to avoid wildfire. The Keller disaster may have left more than six million board feet of timber on the ground within the Colville Reservation alone, and more on nearby private lands. Those trees added thousands of tons to the fuel already drying out on the ground, ready to burn. Further, there were many trees that simply snapped off well above the ground. The dead trees remained standing, but the tops of the trees blew away. Much of this and other flammable debris ended up in or near housing areas.

Similarly, many tribal members depend upon hunting, fishing, and gathering for a significant portion of their food supply. Extended families traditionally camp in the same area every year, gathering berries and hunting. Downed trees blocking access to traditional gathering areas should be treated by FEMA the same as downed trees blocking access roads and camping areas at urban parks. Disaster-caused fuel loads in a traditional camping and gathering area could make a fire burn so hot that it would sterilize the ground and end its use for years to come. Such areas should be treated the same as when downed trees restrict the use of an urban public park or fishing access area.

We understand that FEMA cannot pay for removal of downed timber across hundreds of thousands of acres of forest. However, FEMA's rules should provide flexibility to recognize that large numbers of downed trees and the accumulation of wind-blown forest debris near homes constitute an immediate hazard to both life and property. The Keller disaster happened at the start of fire season. A year later, much of that fuel load is even dryer and is still on the ground, waiting for a spark.

In the CCT's experience, much more can be done to ensure that the unique needs of tribal communities are incorporated into FEMA disaster recovery efforts on tribal lands. In addition to debris management, there are other cultural considerations that should be reflected in FEMA rules. For example, tribal members use traditional foods that are not commercially available. Disaster-caused power outages caused tribal members to lose traditional foods, which in this modern era are frozen rather than traditionally dried, and those losses cannot be replaced. When tallying these individual losses from disasters, the hundreds of person-hours of work required to fill those freezers with irreplaceable traditional foods were not includable, but should have been.

As FEMA works to implement the tribal Stafford Act amendments, the CCT believes that it should take whatever steps are necessary to provide flexibility in applying these and other FEMA rules to the unique needs of tribal and rural communities.

(4) Take Steps to Minimize Confusion over FEMA's Individual and Public Assistance Programs for Disasters on Indian Lands

As the Subcommittee is aware, FEMA administers both individual-assistance and public-assistance programs. To our surprise, damage to homes and personal property on Indian Trust land does not qualify for Individual Assistance programs. Even if the home is privately owned, the fact that it is located on untaxed Indian Trust land apparently disqualifies the resident from receiving assistance. This is grossly unfair to tribal residents, and in effect disqualifies many Indians from any possibility of assistance.

Further, when FEMA's public assistance team arrived in Ferry County to assess the damage, the very name "public assistance" led people both on and off the reservation to assume that they were there to provide drinking water, supplies, or other tangible relief, which was not the case. In implementing the tribal Stafford Act amendments, FEMA must make a concerted effort to ensure that tribal communities and surrounding communities understand the differences between the "Public Assistance" and "Individual Assistance" programs. This will make their role much clearer and will help eliminate both confusion and false hopes among the affected populations.

CONCLUSION

This concludes my testimony. At this time I would be happy to answer any questions that the Subcommittee may have.

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