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AN INDEPENDENT FEMA: RESTORING THE NATION'S CAPABILITIES FOR EFFECTIVE EMERGENCY MANAGEMENT AND DISASTER RESPONSE

(111–32)

HEARING

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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May 12, 2009

SUMMARY OF SUBJECT MATTER

TO: Members of the Committee on Transportation and Infrastructure

FROM: Committee on Transportation and Infrastructure Staff

SUBJECT: Hearing on "An Independent FEMA: Restoring the Nation's Capabilities for Effective Emergency Management and Disaster Response"

PURPOSE OF THE HEARING

The Committee on Transportation and Infrastructure will meet on Thursday, May 14, 2009, at 11:00 a.m., in room 2167 of the Rayburn House Office Building, to receive testimony on "An Independent FEMA: Restoring the Nation's Capabilities for Effective Emergency Management and Disaster Response." The hearing will focus on the Federal Emergency Management Agency (FEMA), and how it has functioned since its placement in the Department of Homeland Security (DHS).

BACKGROUND

FEMA is the Federal Government's lead agency for preparing for, mitigating, responding to, and recovering from disasters and emergencies from all hazards, whether natural or man-made. The agency's primary authority in carrying out these functions is the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)[1].

FEMA is best known for its programs which provide assistance to communities and citizens in the wake of a disaster. FEMA's major programs for disaster recovery are the Public Assistance Program and the Individual Assistance Program, also known as the Individual and Households Program. The Public Assistance Program reimburses state and local emergency response costs and provides grants to state and local governments as well as certain private non-profits to rebuild

[1] 42 U.S.C. 5121-5207

facilities. The Individual Assistance program provides assistance to families and individuals impacted by disasters, including funding for repair, rental assistance, or "direct assistance", i.e. the provision of trailers and mobile homes. FEMA also provides grants to mostly low-income families for loss of personal property, as well as disaster-related dental, medical, and funeral costs to individuals regardless of income. Other Individual Assistance programs include unemployment assistance, disaster food stamps, disaster legal services, and crisis counseling. Both before and after disasters, FEMA also provides grants to communities to reduce the risk of future damage, hardship, and loss from all hazards through the Pre-Disaster Mitigation Program and the (post-disaster) Hazard Mitigation Grant Program, both authorized by the Stafford Act.

In addition to the agency's disaster work, the United States Fire Administration, the National Fire Academy, the Emergency Management Institute, the National Flood Insurance Program, and the Federal Government's programs for continuity of operations and continuity of government are housed within FEMA.

FEMA was created by Reorganization Plan No. 3 of 1978[2], and Executive Order 12127[3] on April 1, 1979. FEMA functioned as an independent agency reporting directly to five Presidents from 1979 until 2003. During the Clinton Administration, the Director of FEMA,[4] James Lee Witt, became a member of the President's Cabinet. As an independent agency, FEMA responded to a wide range of natural and man-made disasters including Hurricane Andrew, the Northridge Earthquake, the 1993 Midwest floods, and both the 1993 and 2001 attacks on the World Trade Center. FEMA was considered a successful government agency in its last ten years as an independent agency, under both President Clinton and President Bush. In fact, when DHS was proposed in 2002, FEMA was held up as a necessary core component of the Department.[5] FEMA became part of the newly created DHS on March 3, 2003, pursuant to the Homeland Security Act of 2002.[6] As a result, President Bush delegated to the Secretary of DHS the responsibility for administering most of the provisions of the Stafford Act and other FEMA authorities.[7]

Significance of Disaster Relief

While it is indisputable that the September 11, 2001 terrorist attacks refocused our nation's attention on the threat of terrorism and significantly changed our society, the major threats to most communities around the country continue to be natural disasters. The nations still faces the same threats from fires, floods, tornadoes, hurricanes and other disasters, and currently, as before the events of September 11, disaster relief is a significant portion of the Federal budget.

Since 1999, Congress has appropriated $92.28 billion for the Disaster Relief Fund in response to disasters and emergencies declared by the President under the Stafford Act. In addition, the National Flood Insurance Program, administered by FEMA, paid over $27.6 billion in claims for flood damage during that same time.[8] Over the past ten years, private insurance has paid more than

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[2] 43 FR 41943
[3] 44 FR 19367
[4] Prior to April 1, 2007 the Administrator of FEMA was referred to as the Director of FEMA.
[5] Christopher Cooper and Robert Block, "Disaster Hurricane Katrina and the Failure of Homeland Security", Times Books, 2006, p. 76.
[6] Public Law 107-296, 116 Stat. 2135
[7] Executive Order 13286, 68 FR 10619
[8] Source: FEMA

$170 billion in claims for natural disasters.[9] These amounts do not include funds spent in connection with the September 11 attacks. Therefore, nearly $290 billion was expended over the last decade in response to natural disasters, without counting the costs borne by States, local governments, and private citizens.

Since 2000, according to FEMA, the President has declared only two disasters because of terrorist attacks but declared over 500 disasters because of natural hazards. Despite this fact, relatively few of the nation's preparedness funds have been distributed for core preparedness but have been funneled instead to terrorism-specific activities. As was first revealed at an April 2007 hearing of the Subcommittee on Economic Development, Public Buildings and Emergency Management, in the last six years, the Federal Government has spent ten times more on terrorism preparedness (nearly $15 billion) than on core emergency management preparedness ($1.5 billion).

Effective Emergency Management

There are many components of an effective emergency management system. These include the ability to respond quickly, effectively, and flexibly, as well as the ability to make quick decisions or provide information directly to key executive decision makers (e.g. the President, a Governor or a Mayor). Emergency management is also a collaborative enterprise between local, state, and Federal agencies and officials. Emergency management functions on the premise that all events begin at the local level and the state and Federal Government provide support to those local efforts if and when the situation warrants. This approach distinguishes emergency management from homeland security, which is based on a more top-down, law enforcement model where the Federal Government has the lead in most areas, such as protecting our borders, immigration, and transportation security.

Contemporary emergency management also employs an "all hazards" approach and integrates all phases of emergency management - preparedness, response, recovery and mitigation. An all hazards approach is based on the premise that communities do not need to prepare separately for each kind of threat. The essential elements of preparedness, response and recovery are the same regardless of the type of event. Whether a building collapses from a bomb, a pipeline explosion, or an earthquake, the rescue and the debris removal are the same. The evacuation of a community is largely the same whether due to a hurricane, a heightened threat of a terrorist attack, or a hazmat incident. While the specific assets needed to respond to each disaster will differ, the methods and systems to effectively manage a disaster are the same. Testimony from emergency managers and others before the Subcommittee on Economic Development, Public Buildings and Emergency Management, has supported an all hazards approach as the best course for effective emergency management.

Crisis Management versus Consequence Management

A distinction between the two phases of dealing with a terrorist event was developed in the 1990s to distinguish between the roles of law enforcement and emergency management. These two phases are known as "crisis management" and "consequence management". Under this construct, law enforcement agencies (e.g. the Federal Bureau of Investigation and now DHS) are responsible for preventing terrorist activity and the prosecution of those who carry it out. Today, crisis

[9] Source: Property Casualty Insurers Association of America

management is often called "prevention and protection". In this phase, dealing with terrorism is different than other threats our nation faces, and this is the focus of many other entities and agencies within DHS. It includes protecting our borders, our transportation systems, our communities, and our infrastructure, as well as working closely with other law enforcement and intelligence agencies. FEMA does not contribute materially to this prevention and protection mission.

Conversely, emergency managers are responsible for consequence management, or preparedness, response, recovery and mitigation. Consequence management entails planning for a wide range of hazards, regardless of cause, to ensure a community is prepared and able to mount an effective response and recovery effort when disaster strikes.

This division of responsibilities worked well in the aftermath of the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City and both the 1993 and the 2001 attacks on the World Trade Center. FEMA responded to each of these as an independent agency and used its all hazards authority under the Stafford Act. Therefore, prior experience indicates that no separate systems are needed to manage the consequences of a terrorist attack versus a natural disaster.

FEMA's Performance in DHS

Oversight hearings held by the Committee on Transportation and Infrastructure since 2003 have shown a correlation between the absorption of FEMA into DHS and the deterioration of FEMA's effectiveness. In the aftermath of the poor Federal response to Hurricanes Katrina and Rita in 2005, Congress enacted the Post Katrina Emergency Management Reform Act of 2006.[10] This law attempted to enhance FEMA's authority within DHS. While there has been some improvement, FEMA continues to lack the autonomy to function as a "distinct entity" within DHS, as required by the Post Katrina Act[11], which has continued to hamper the agency's performance.

The nation witnessed the tragic consequences of the breakdown of FEMA operations during the poor Federal response to Hurricanes Katrina and Rita in 2005. Delays in the immediate response in the days following Hurricane Katrina left people stranded without food, water, or shelter and living in fear for their safety, their security, and their lives. To this day, many communities in Louisiana have still not recovered from these disasters, and continue to have need for public assistance, illustrating that the catastrophic response was followed by an ineffective recovery effort.

While Katrina was the most significant and memorable example, other examples indicate FEMA's performance continues to be deficient, including the agency's response to the discovery of formaldehyde in travel trailers. FEMA's inability to identify the significance of the public health impacts and to develop a swift, appropriate response illustrates the difficulties FEMA continues to face in DHS.

The 2008 season was the first Hurricane season of significance since Hurricanes Katrina and Rita. In the aftermath of Hurricane Ike last year, residents and communities in Texas experienced significant shortcomings in the delivery of recovery assistance. For example, FEMA was long

[10] Title VI of Public Law 109-295, 120 Stat 1394
[11] 6 U.S.C. 316(a)

delayed in developing the National Disaster Housing Strategy[12] to ensure a plan for safe and sanitary housing as required by Congress after Hurricane Katrina[13]. Without the required planning completed, FEMA was unprepared, in the aftermath of Hurricane Ike, to meet the short and long-term housing needs of the hundreds of thousands of victims who needed housing assistance.

There have also been serious concerns expressed by Governor of Texas and other Texas public officials about the speed of FEMA's debris removal operations.[14] Months after the disaster, critical debris removal operations were still not underway. This is contrasted with the debris removal operation at the World Trade Center site after the September 11, 2001 attacks. That debris removal operation, which occurred while FEMA was still an independent agency, was completed early and under budget[15].

Impediments Facing FEMA in DHS

Transfer of Personnel and Resources

Upon FEMA's incorporation into DHS, personnel were transferred from FEMA to other agencies within DHS and funds were cut and distributed elsewhere within the Department, leaving FEMA without its most seasoned and knowledgeable staff and bereft of funds and other resources needed for an effective response to Hurricane Katrina. Many of the people who were left to oversee FEMA, especially in DHS, had little or no experience in emergency management.

Further, the statutory "wall" created around FEMA by the Post Katrina Act to prevent the transfer of resources out of FEMA[16] has not been sufficient to protect the agency from having DHS manage its resources. In its FY 2010 budget request, DHS proposes to transfer positions out of FEMA and into the Office of the Secretary.

Shift in FEMA's Mission to Terrorism

Previous hearings and other information provided to the Committee have raised concerns that changes made by DHS to FEMA programs continue to shift FEMA's mission from all hazards towards terrorism at the expense of natural disasters and other emergencies. For example, changes to two Federal grant programs that previously helped build basic emergency management and firefighting capability in communities around the country, Emergency Management Performance Grants (EMPG) and Fire Grants, illustrate this trend.

Since FEMA become part of the Department, DHS has attempted to change the focus of EMPG to a terrorism preparedness program rather than its longstanding purpose of basic emergency management capacity building. The Department has done so by requiring States and localities to agree to spend the funds on DHS-mandated planning scenarios that are focused on terrorism. DHS has also mandated that grants be sent through state homeland security officials

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[12] The National Disaster Housing Strategy was due in July 2007 and was issued on Friday, January 16, 2009, the last business day of the Bush Administration.
[13] 6 USC 772
[14] See, e.g. "Texas Residents Watch Hurricane Ike Debris Mount" National Public Radio - All Things Considered, December 9, 2008.
[15] See, e.g. "The Last Steel Column" The New York Times May 30, 2002.
[16] 6 U.S.C. 316(b)-(d)

(SAAs) rather than continuing the longstanding practice of giving funds directly to emergency managers. This trend continues in the DHS FY 2010 budget proposal, which proposes that the budget for EMPG be combined with terrorism specific programs.

Concerns have also been raised about the Fire Grant program, which under its authorizing statute[17] is designed to build and enhance basic fire fighting capability and enhance firefighter safety in communities across the nation. However, under DHS, fire departments have been required to show a nexus to terrorism to be eligible for grants. Further, DHS budget requests, including the FY 2010 request, have attempted to limit the program to those aspects that have a nexus to terrorism or to focus funds on communities with a greater risk of terrorism.

Reduction in FEMA's Decision-Making Power

Quick decision-making and the flexibility to shift focus as events change are two fundamental hallmarks of successful emergency management. Without the authority to make final decisions an agency can not be effective. Within DHS, FEMA officials have had to run all decisions through the Secretary of Homeland Security. Examples of this "chain of command" include announcements of major policy pronouncements and other major decisions. Further, statements of DHS and FEMA officials have indicated that major decisions have been made or approved in the office of the Secretary, notwithstanding the provisions of the Post Katrina Act that make FEMA autonomous as a "distinct entity". FEMA has also had to work through the Secretary to access non-FEMA Federal resources in a response effort. These impediments did not exist when FEMA was an independent agency, and raises concerns about the impact on the speed and flexibility of services that are provided to citizens and communities following a disaster.

DHS Duplicates Capacities and Functions of FEMA

DHS has created separate and redundant functions under the direct control of the Secretary to perform functions that by law are the sole responsibility of FEMA. For example, DHS pre-designated individuals to serve as Principal Federal Officials (PFOs) for disasters during the 2008 Hurricane season, despite several laws enacted by Congress after Hurricane Katrina[18] that prohibited the Secretary from doing so. By law, the President, acting through FEMA, is authorized to appoint a Federal Coordinating Officer (FCO) to be the lead Federal official in response to major disasters and emergencies.[19] The confusion regarding the roles of these different officials and the resulting lack of clear authority was widely criticized as a factor in the failed response to Hurricane Katrina. DHS justified the appointment of a PFO by relying on Homeland Security Presidential Directives, administrative documents created by the Bush Administration. These administrative provisions conflict with and, in some cases, have been superseded by subsequent laws.

Another example is the Office of the Federal Coordinator for Gulf Coast Rebuilding, which was created by President Bush in an Executive Order[20], prior to the Post Katrina Act, and resides in DHS headquarters and not FEMA. Under the Post Katrina Act, the Administrator of FEMA is

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[17] 15 U.S.C. 2229

[18] 6 U.S.C. 319(c)(2).; P.L. 110-161 Division E, Title III, Section 541, 121 Stat 2079; P.L. 110-329 Division D, Title V, Section 526, 122 Stat 3686.

[19] Section 302 of the Stafford Act, 42 U.S.C. 5143

[20] Executive Order 13390 70 FR 67327

designated as the principal advisor to the President and the Secretary for "all matters related to emergency management", including recovery.[21] Therefore, the duties for this DHS office should reside with the Administrator of FEMA. The office of Gulf Coast Rebuilding continues to exist in the office of the Secretary, and the FY 2010 budget proposes $2 million for the office, including an increase in staff.

THE "FEMA INDEPENDENCE ACT OF 2009"

In order to restore FEMA's core emergency management mission, on February 25 2009, Chairman Oberstar introduced H.R. 1174, the "FEMA Independence Act of 2009". The bi-partisan legislation currently has 29 co-sponsors.

This legislation re-establishes FEMA as an independent, cabinet-level agency reporting directly to the President. An independent FEMA would have responsibility for core emergency management programs and functions currently administered by the agency. The programs and functions transferred to the new agency include:

- FEMA's disaster assistance and other programs under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;
- the National Flood Insurance Program;
- the Earthquake Hazards Reduction Program;
- the National Dam Safety Program;
- the U.S. Fire Administration and programs authorized by the Fire Prevention and Control Act of 1974;
- the Emergency Food and Shelter Program; and
- FEMA's programs for Continuity of Operations and Continuity of Government.

The bill does not transfer any grant programs or functions, which are currently administered by FEMA, specific to terrorism, such as the Urban Area Security Initiative and the State Homeland Security Grant Program. DHS would continue to lead our Nation's efforts to prevent and protect against terrorist incidents and attacks (crisis management), and its responsibilities over homeland security would not be affected by this bill.

The bill requires the FEMA Administrator to maintain the National Advisory Council and retain a Disability Coordinator, continues the authorization of the National Integration Center, and ensures that FEMA will proceed on the development of standards for disaster deployment capabilities in collaboration with several entities. Each of these activities is currently authorized and being implemented by FEMA.

PRIOR LEGISLATIVE AND OVERSIGHT ACTIVITY

In the 111th Congress, the Committee on Transportation and Infrastructure acted on the following bill related to FEMA:

[21] 6 U.S.C. 313(c)(4)

- **H.R. 1746, the "Pre-Disaster Mitigation Act of 2009"**: This legislation reauthorizes and makes improvements to FEMA's Pre-Disaster Mitigation Program, including codification of the competitive aspects of the program. On April 27, 2009, the House passed H.R. 1746 by voice vote.

In the 110th Congress, the Committee on Transportation and Infrastructure acted on the following bills related to FEMA:

- **H.R. 6658, the "Disaster Response, Recovery, and Mitigation Enhancement Act of 2008"**: This legislation amends the Stafford Act to improve the assistance the Federal Government provides to states, local governments, and communities after major disasters and emergencies. On July 31, 2008, the Committee ordered H.R. 6658 reported to the House.

- **H.R. 6109, the "Pre-Disaster Mitigation Act of 2008"**: This legislation reauthorized FEMA's Pre-Disaster Mitigation program and makes improvements, including codification of the competitive aspects of the program. On June 23, 2008, the House passed H.R. 6109 under suspension of the rules by voice vote.

- **H.R. 3247, the "Hurricane Katrina and Rita Recovery Facilitation Act of 2007"**: This legislation provides additional Federal relief targeted to the recovery from Hurricanes Katrina and Rita in Louisiana and Mississippi. On October 29, 2007, the House passed H.R. 3247 under suspension of the rules by voice vote.

- **H.R. 3224, the "Dam Rehabilitation and Repair Act of 2007"**: This legislation establishes a program to provide grant assistance to states for use in rehabilitating publicly-owned dams that fail to meet minimum safety standards and pose an unacceptable risk to the public. On October 29, 2007, the House passed H.R. 3224 by a recorded vote of 263-102.

- **H.R. 1144, the "Hurricanes Katrina and Rita Federal Match Relief Act of 2007"**: This legislation provides significant relief for communities devastated by Hurricanes Katrina, Rita, and Wilma, by raising the Federal cost share for critical disaster relief programs to 100 percent and by authorizing the cancellation of Community Disaster Loans under certain conditions like all previous Community Disaster Loans. H.R. 1144 was enacted as part of P.L. 110-28, the "U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007".

In the 109th Congress, the Committee on Transportation and Infrastructure acted on and the Congress enacted the following bill related to FEMA:

- **The "Post-Katrina Emergency Management Reform Act of 2006" (Title VI of P.L. 109-295).** This bill reunited preparedness functions back into FEMA and required that FEMA be a "distinct entity" in the Department of Homeland Security.

In the 111th and 110th Congress, the Committee and Subcommittee held numerous hearings related to the Federal Emergency Management Agency, including:

- "Post-Katrina Temporary Housing Dilemmas and Solutions" (March 20, 2007)
- "FEMA's Emergency Food Supply System" (April 20, 2007)
- "FEMA's Preparedness and Response to ALL Hazards" (April 26, 2007)
- "Legislative Fixes for Lingering Problems that Hinder Katrina Recovery" (May 10, 2007)
- "Assuring the National Guard is as Ready at Home as It is Abroad" (May 18, 2007)
- "Readiness in the Post-Katrina and Post-9/11 World" (September 11, 2007)
- "National Flood Plain Remapping: The Practical Impact" (April 2, 2008)
- "Saving Lives and Money through Pre-Disaster Mitigation" (April 30, 2008)
- "Moving Mississippi Forward: Ongoing Progress and Remaining Problems" (June 19, 2008)
- "Role of the Federal Government in Small Business Disaster Recovery" (September 12, 2008)
- "FEMA's Response to the 2008 Hurricane Season and the National Housing Strategy" (September 12, 2008)
- "Post-Katrina Disaster Response and Recovery: Evaluating FEMA's Continuing Efforts in the Gulf Coast and Response to Recent Disasters" (February 25, 2009)
- "Disaster Capacity in the National Capital Region: Experiences, Capabilities, and Weaknesses" (April 3, 2009)
- "FEMA: Preparedness for the 2009 Hurricane Season" (May 1, 2009)

WITNESSES

Mr. Larry Gispert
Director
Hillsborough County Emergency Management

Mr. Jerome Hauer
Chief Executive Officer
The Hauer Group

Lieutenant General Russel L. Honoré (RET.)
United States Army

Mr. Larry Larson
Executive Director
Association of State Floodplain Managers

Dr. Mitchell Moss
Professor
Henry Hart Rice Professor School of Urban Policy and Planning
New York University

HEARING ON AN INDEPENDENT FEMA: RESTORING THE NATION'S CAPABILITIES FOR EFFECTIVE EMERGENCY MANAGEMENT AND DISASTER RESPONSE

Thursday, May 14, 2009,

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
WASHINGTON, DC.

The Committee met, pursuant to call, at 12:15 p.m., in Room 2167, Rayburn House Office Building, the Honorable James Oberstar [Chairman of the Committee] presiding.

Mr. OBERSTAR. The Committee will come to order, with apologies for the repeated votes on the House Floor that, however, will leave us in continuity for the next couple of hours.

I want to thank Mr. Mica for joining me in this hearing and our panel for participating.

We will receive testimony today on the performance of FEMA, on whether the agency can effectively carry out its essential function of helping communities and their residents to prepare, to respond, to recover, to mitigate disasters and emergencies in their role within the Department of Homeland Security.

My relationship with this organization goes back a very long way, to a time when one of your predecessors, Mr. Mica, Bill Klinger, was my partner on the Investigations and Oversight Subcommittee in the mid-1980s. When then President Reagan made a radical proposal to eliminate Federal funding in support to communities and States for disasters, a hue and cry rose up across the Country, especially the State of Pennsylvania, where a Member of Congress from the Republican party had just experienced in his district a disastrous flood and needed the support of the then Civil Defense Agency.

So at his instance, Mr. Klinger and I gathered witnesses and communities who had been engaged in disaster response, relief, as well as mitigation from across the Country and had an extensive two-day hearing, the end of which was the Member of Pennsylvania led this charge, I invited to participate with us in drafting legislation that resulted in creation of FEMA—although it was initiated by Jimmy Carter, it really was still Civil Defense in those days—and restructured the financing, set the partnership and the framework for the program in Federal law, which had not been done, it had been done by administrative action.

Then I asked this Member to introduce the bill and I would be a cosponsor, and, Mr. Mica, he said, well, you are the Chairman

of the Committee; it is unusual for a Republican in a minority position. I said, no, you had the guts to stand up to your administration, I want you to sponsor the bill. His name, Tom Ridge. Years later, when he was designated to be Homeland Security Secretary, he came up to see me and said, you know, you got me into all this mess, you started it all. And we have had that partnership for all these years.

As an independent agency, FEMA responded effectively to a wide range of natural disasters: the North Ridge Earthquake, the 1993 Midwest floods, the 1993 terrorist attack on The World Trade Center, the 2001 September 11 attack. FEMA was considered a model government agency.

But then, in the aftermath of September 11, the Bush Administration proposed a Homeland Security Department, consolidating 22 agencies into one department, and our former Chairman, Mr. Young, and I were called, along with other Full Committee Chairs and Ranking Members from the House and Senate to the White House for a conference, and in that meeting both Mr. Young and I spoke up against including Coast Guard and FEMA in the Department of Homeland Security. They have a different mission. They have different roles. There could be a liaison, there could be a connect to Homeland Security.

In fact, just a little bit of overture dictum, when I served on the Pan Am 103 Commission, along with our former colleague, Mr. Hammerschmidt, who was Ranking Member of the Full Committee, our Pan Am 103 Commission recommended a small, nimble, mobile unit consisting of a half dozen or so cabinet officers or agency heads that would form an intelligence unit that would evaluate and disseminate information on aviation terrorism. This was in 1990. Not a department, but a small unit that would be quick and effective, that would coordinate all the agencies. So I proposed that to the President, instead of this massive department. I said it will grow into a huge monstrosity.

Mr. Young pointed out, then-Chairman Young, that every year we know there are going to be disasters. Our terrorism, our fear in the heartland is flood, white-out from blizzards, hurricanes, storm surges. That is our terror. We shouldn't have FEMA in this organization. Well, we know what happened; the Department of Homeland Security was created, FEMA was absorbed into it, and, just as I said at the time in this Committee room, money is fungible, people are movable, and they will move people out of FEMA, they will move money out of FEMA and leave it emasculated.

We have spent 10 times more on terrorism preparedness, $15 billion, than we have on emergency management preparedness in the last six years, $1.5 billion on emergency preparedness; $15 billion on terrorism preparedness. We just have to look around this Capitol complex to see the expenditures the Congress is making on terrorism prevention and preparedness.

Well, when the bill came to the House Floor, I said, in support of an amendment I offered to delete FEMA from the Department of Homeland Security, I said, this is July 2002. Let's fast forward to July 2003. The majority has prevailed, FEMA is a box in the mammoth bureaucracy of the Department of Homeland Security.

The flood waters are swirling around your city. You call for help, you get the Department of Homeland Security.

The switchboard sends your call to the under secretary's office, which looks up disaster on their organizational chart and sends you to the Congressional liaison office, which then promises to get a message back to you in 24 hours. Eventually, they find FEMA, by which time you are on the roof of your house, waving a white handkerchief and screaming for help. FEMA, the word comes back, sorry, is looking for suspected terrorists someplace and will get back to you as soon as we can.

I had no idea that Katrina would strike, but it did. Several of our colleagues on both sides of the aisle went back and said Oberstar said something about this back then and repeated my words. So here we are in February of this year with bipartisan support in this Committee, and I introduced the FEMA Independence Act of 2009 to reestablish FEMA as an independent cabinet level agency reporting directly to the President.

Secretary Napolitano yesterday said, with the President's blessing, that the Administration does not have plans to remove FEMA from Department of Homeland Security, and I understand that competing priorities and calls on the President's time and on the time of the various cabinet officers who are feeling their way, trying to get themselves into position, but I think we on this Committee have been doing this a much longer time than the Administration has, and I think we know more about it than they do.

So we are going to proceed with this legislation and proceed with this hearing, and take the views of the witnesses at our table today. Thank you for listening to my monologue.

Mr. Mica?

Mr. MICA. Well, first, I have to thank you, Mr. Oberstar, for your leadership on this issue and also holding this hearing today; it is an important hearing. We both have similar stories to tell about the progression that has taken to get us to this day with FEMA under Homeland Security. I remember giving a very eloquent set of remarks in the Government Reform Committee, which the proposal to combine 22 agencies into one Homeland Security Department, and I questioned putting FEMA and Coast Guard, exactly your position, into that agency, and then having it run efficiently.

At the time, there was—well, first, the Bush Administration didn't want to do it, then they combined it all together and were trying to convince everyone it would work, and I said no way, Jose. After I gave that speech, I was asked to tone down my rhetoric by the Administration, but it is unfortunate that what we predicted came through. Unfortunately, also, with the experience we had with Katrina.

I support you strongly. I am a cosponsor of H.R.—I believe it is—1174, ready to take it up at any time and pass it out of our Committee, because it is important. I think today's hearing—and we are fortunate you have some excellent witnesses, one of them from my State.

Let me recognize Larry Gispert. He is not from my district, but from Hillsborough, the west side of the State, Emergency Management Services Director there. Certainly, Florida, I think, is one of the premier States that has shown how you deal with disasters, be-

cause we have been hit so many times. But fortunate, too, I understand on Monday Craig Fugate, our former State director, will be sworn in as the President's selection to head FEMA. Excellent choice; couldn't do better. Tested, qualified, sees the full picture.

So we have had our fair share. Even in my district I have had three in the last ten years. I had three hurricanes and two tornadoes, fires, floods. We have had everything but locusts, and we are waiting on that to come.

But I am pleased to join you today in a continued call to look at the mistakes that were made.

I have a chart which I made up. Let me just describe, in closing, the problem that we face. We have just been joined by our new Ranking Member here. You get to see this too.

But we have, what is it, POTUS, and we have now got DHS, and now we have got FEMA under here. What Mr. Oberstar and I recommend is we have the President and then we have FEMA here, and what we had in Katrina, we had the President, we had DHS, but we also had DOD, and then we had this other issue of the State National Guards.

We also, of course, had other agencies like Coast Guard, which did a great job. And we had confusion here, here, here. We have actually put in place—I guess the President put in place to deal with this DOD issue a—what was it, the task force?—Task Force Katrina. So this is what we ended up with and this is really what I think works the most efficiently.

The President really is the only one that has the ability to call out DOD and the other agencies. The Chairman just described the call to DHS. It was somewhat humorous, everyone was chuckling, but there is so much truth to what he described. We have got to get back to that model. We lost days in here and people died and we lost property. It was difficult to tell who was in charge of what, and we have got to simplify that. So I am prepared for this model, having the President in charge, having FEMA return to its role and a direct relationship and ability to respond.

I have asked leaders who they think is in charge in several meetings we have had in the past. You get different answers, even with some of the changes that have been made in an attempt to try to clarify. This is the model we need and I look forward to working with you.

Finally, too, the Stafford Act, at some point, we need revisions there. We need the ability to get assets for smaller disasters to communities. Mr. Ross, from Arkansas, and myself, we had nightmares. I think he had tornadoes, I know I had tornadoes. I had trailers, and I would love to hear, we don't have the FEMA folks here, what they have done with the hundreds of thousands of trailers that they had, but we had them down the street in storage with FEMA paying rent on them, and I had people without housing, which is totally unsatisfactory. At one point we had six attorneys on the phone trying to figure out how to resolve this situation. Six attorneys. We ended up not being able to get them any housing.

So just again, a clear chain of command and then some flexibility so that we can make certain that, when we have a disaster, the people that need aid get a positive response and assistance from their government at every level.

Thank you.

Mr. OBERSTAR. Thank you very much for that chart, with which I fully agree.

Mr. MICA. I would submit that chart to the record.

Mr. OBERSTAR. To which we could add within the Department all those several layers of internal bureaucracy so that the FEMA director never got to the Secretary of Homeland Security. Never got to him.

Mr. MICA. I would ask, also, Mr. Shuster was active in trying to look at what went wrong with Katrina. He isn't with us, and I would like to submit—he is the former Chairman of the Subcommittee, I believe.

Mr. OBERSTAR. Yes. And he did splendid work during that time.

Mr. MICA. So I would like to submit——

Mr. OBERSTAR. Without objection, his statement will be included in the record.

I would like to now recognize our Chair of the Subcommittee, who had another event that she had to attend and is now back with us.

Ms. Norton, thank you for returning.

Ms. NORTON. Thank you.

Mr. OBERSTAR. And for the splendid work that you have done over the last two years of hearings and inquiry into FEMA. You have really laid open this issue we are addressing today.

Ms. NORTON. Well, I very much thank you, Mr. Chairman. All of us who are Subcommittee Chairs are trying to still live up to the high mark you set for us, as impossible as that is. I do want to thank you for your continued persistence in what can only be called the reform of FEMA.

I concede that I don't see much appetite, not as yet, on the part of the Administration or of Congress to take on the behemoth task of unraveling and disjointing FEMA from the bureaucracy in which it is now encased. But that does not mean that your persistence in pointing out just how hobbled the agency has been within that bureaucracy should cease. The only way to get action is to do precisely what you are doing now. So I was pleased to join you as a cosponsor of your bill, the bill that the four of us, I believe, have all sponsored.

Mr. Chairman, with you, there was certain logic we all saw in putting FEMA, which is a major disaster agency, within the major disaster bureaucracy that we created called the Department of Homeland Security. When it failed, worse than any government failure, I think, in the United States in our history, we moved to enact the Post-Katrina Emergency Reform Act, because they wanted to give FEMA a chance to show that with more flexibility, with the oversight you and my own Subcommittee had given, there could be improvements, recognizing how difficult it is to undo a structural change as new as the Department of Homeland Security was.

I must say to you, Mr. Chairman, having had more Subcommittee hearings in my combined jurisdictions than any Subcommittee within your jurisdiction, and a dozen hearings on FEMA alone, I must say to you that that has been an exercise in frustration rather than improvement based on oversight, yours, sir, and

mine. We have had hearings on every conceivable element of FEMA: its housing plan, which was abysmally late; its emergency food supply plan, which is at the heart of why it exists, for post-disaster relief; its response to all hazards, which was the whole reason for putting it in that bureaucracy in the first place, all hazards, because the response is essentially the same regardless of hazard, the recovery is essentially the same.

And for me, who has the primary jurisdiction over FEMA, when you consider that Homeland Security, the Committee on which I also serve, has jurisdiction only over preparing for terrorist events. Well, 99.9 percent of what FEMA does is exactly what FEMA did before 9/11 and before the anthrax attacks. What the American people look to FEMA to do is to take care of the American people in hurricane season, in tornado season, in flood season, yes, and in icicle season with the ice storms in Kentucky and in the Midwest. And when we see shortcomings there, we begin to wonder what the Department of Homeland Security is there for. Has this huge umbrella done us any good? And if we are supposed to wait, how long are we supposed to wait.

Now, Mr. Chairman, I ran a Federal agency once and I know that it is like turning around a hippopotamus even to make a small one change, and I looked at the Department of Defense to get some comparison, and the Department of Defense, more than 50 years ago, had to do the same thing we are doing here, consolidate existing departments; and if you look at the GAO reports on DOD, you will see that they will say that they still have serious management failings.

I don't think that you, Mr. Chairman, nor I, were asking for the impossible here. We were just asking to see some improvement that some response to Congressional criticism post-Katrina, and that, I believe, is the real impetus for this. I didn't want to hear the word trailer again, but this year we were still talking about trailers. If you want to know the source of my greatest frustration—and I will not rest until it is done—in the middle of the stimulus package, we learned that there were $3.4 billion still outstanding in the Gulf Coast. You have got to be joking. We are trying to get money to people in order to do precisely what they were supposed to be doing, rebuilding their hospitals, putting people back to work, and these people have had hung up for years $3.4 billion? I almost climbed the walls in this very room.

Senator Mary Landrieu was so put out that she put in to the last omnibus bill a section that would create an arbitration panel of panelists appointed by the President of the United States. That may be too large a response. We now have tried to rein it in. I have asked for a status report on the $3.4 billion. Is it still growing?

We have a new Secretary and she is not a part of any of this. I am willing to work with her to see what she can do, although I believe these are deeply embedded within what we have created, and we have to take responsibility for it. But the $3.4 billion is what blows me out of the water, Mr. Chairman. Not able to reach a decision. Nowhere in the bureaucracy is there the ingenuity—and I do not think it takes much—to give people deadlines, to bring in an outside force, even if it is not arbitrators, to give them final authority.

Indeed, in doing research on this, Mr. Chairman, I found that the AAA, the American Arbitration Association, had been called in by the Federal Government to do precisely for that, when a number of States, with their big Medicaid programs, were stuck on stupid, and that they had straightened that out. So there is even precedent for doing it.

I like government; I am not one of these people. But I can understand why people want to get rid of government when they see this kind of performance. I am not sure what the answer is.

If your bill, our bill does not move this time, Mr. Chairman, I believe we will have to, at the very least, take action to give FEMA greater, considerably greater autonomy within DHS. I had no response from the Administration. I know they have a lot on their plate. Typically, until there is a failure, people don't act. So, you know, if there is another great big failure, they will see people rushing to say, Mr. Oberstar, would you please do something about your bill. But you and I can't wish for another big failure.

We have seen duplication in money, we have seen the bleeding of staff and resources out of FEMA into terrorism, even after the aftermath of 9/11. Rather than throw our hands up, you are doing, Mr. Chairman, what you do best, and that is to look for a remedy, and I am with you in looking for that remedy. I want to be with you in finding that remedy this session. But I ask you, as well, please don't leave us in another session if this Administration does not come with us, if the leadership does not come with us. I then think we have to move ahead and give the kind of autonomy, the kind of answer and greater autonomy that it will be very difficult to refuse, given the record you have made in this hearing and in prior hearings.

And I thank you very much for your great persistence in not giving us on what is necessary to make FEMA and DHS perform as Congress intended. Thank you, Mr. Chairman, again.

Mr. OBERSTAR. Thank you very much, Chair Norton, for a very detailed discussion of the hearings, the highlights of the hearings that you have held, for the work that you have done, the hours you invested in this. It is my intention to pursue this bill. We will move it through Subcommittee and we will move it through Full Committee, and that is the way to get people's attention around this town.

I want to quote from Representative Shuster's statement, which we are going to accept for the record. He quotes from the Katrina report—you served on that Commission—which says "Critical response decision points were assigned to the Secretary of Homeland Security. The Secretary executed these responsibilities late, ineffectively, or not at all. The reforms," he says, "we made in the Post-Katrina Reform Act to address this problem have not been implemented. We need to implement those reforms."

Now I yield to the distinguished Ranking Member of the Subcommittee, Mr. Diaz-Balart, following which we will take testimony from the panel of witnesses.

Thank you, Mr. Diaz-Balart, for your participation all throughout the hearings we have held so far in this session of Congress.

Mr. DIAZ-BALART. Thank you, Mr. Chairman. Let me actually thank you for this hearing and for your leadership on such an im-

portant issue. As a Member that represents the State of Florida, again, a State that unfortunately sees our fair share, or beyond our fair share of storms, I really appreciate the important role that FEMA plays in disasters and recovery after disasters.

We have some very good news, as you well know, Mr. Chairman. Greg Fugate has now been confirmed as the new Director of FEMA. Chairwoman Norton and I, in a meeting that she held in south Florida, were able to once again witness firsthand, frankly, the job that Florida has been doing, probably the best in the Nation, and part of the reason is because of the leadership of Mr. Fugate. So I am excited that now he is going to be up here.

But as you have said and as Ranking Member Mica has said, and also Chairman Norton has said, obviously, there have been some improvements after Rita, after Katrina, but, as you just said yourself, right now, a lot of things have yet to be implemented, despite the passage of the 2006 bill. They are obviously inconsistent policies and they slow the decision-making, and those are just some of the symptoms with the bureaucracy and the bureaucratic makeup that now FEMA has to deal with, because they are buried into DHS.

That is why I am so pleased to be a cosponsor of the bill, of the FEMA Independence Act of 2009, along, again, obviously, with the leadership of the Chairman, with the Ranking Member, Chairwoman Norton as well. I think it is a common sense approach to do that. The overarching issue obviously is that we must ensure that FEMA has the necessary authority, the tools, the resources, the flexibility to effectively and efficiently carry out its vital mission.

So I look forward to hearing from the witnesses today. I want to once again thank the Chairman for his leadership and I look forward to listening to the testimony and to be able to move forward on what I think is possibly one of the most important pieces of legislation that we might be doing this year. Thank you, sir.

Mr. OBERSTAR. Thank you very much for your comments, for your support, your partnership in this initiative.

Our first panel includes Lieutenant General Russel Honore, now retired, author of this splendid book. Thank you for your contribution. I had not read it. I knew it was coming, heard about it. Survival: How A Culture of Preparedness Can Save You and Your Family From Disasters. It promises to be a very important contribution to our body of work on this subject of preparedness.

Larry Larson, Executive Director of the Association of Floodplain Managers; Jerome Hauer, Chief Executive Officer of The Hauer Group; Larry Gispert, Hillsborough County Emergency Management; Dr. Mitchell Moss, Professor, Henry Hart Rice School of Urban Policy and Planning at New York University.

We will begin, General Honore, with you.

TESTIMONY OF LIEUTENANT GENERAL RUSSEL L. HONORE, RET., UNITED STATES ARMY; LARRY LARSON, EXECUTIVE DIRECTOR, ASSOCIATION OF STATE FLOODPLAIN MANAGERS; JEROME HAUER, CHIEF EXECUTIVE OFFICER, THE HAUER GROUP; LARRY GISPERT, DIRECTOR, HILLSBOROUGH COUNTY EMERGENCY MANAGEMENT; AND MITCHELL MOSS, PROFESSOR, HENRY HART RICE PROFESSOR SCHOOL OF URBAN POLICY AND PLANNING, NEW YORK UNIVERSITY

General HONORE. Thank you, Mr. Chairman and Members present. It is an honor to be here today to share a few ideas with you on this topic of great relevance to our Nation. I had the experience of some six years as a General officer in the United States Army and on the Joint Staff to support FEMA in response to hurricanes and other disasters in the United States, and my bottom line recommendation is that FEMA is too important for the working poor people of this Country to be hidden inside of DHS. DHS is focused on protecting this Country. FEMA should be focused on helping our people before, during, and after natural and manmade disasters.

I too lay witness when FEMA was made part of DHS, and admiring that piece of work is like admiring your marksmanship when you are shooting at your foot; it was wrong then, it is now wrong, and it will continue to be wrong. And this is no criticism on the Secretary of the Department of Homeland Security, or the very competent man, Mr. Fugate, who is about to take it. This is not about the leadership, it is about the bureaucracy and what has gone wrong, and what was the intent of the Stafford Act and what it has become.

Points made earlier about the amount of money spent in preparedness, one need to only look and remember that we need to reform how we spend the Stafford Act money in that we have governors who don't want anybody to tell them what to do, but when a disaster happens, they want to turn the disaster recovery over to FEMA so they can go on making speeches and doing whatever else they do. We need to change that. We need to put the responsibility back on State government and FEMA being in support of them.

It is interesting that one State rebuilt its football stadium, but the schools will not open. How did the State legislature figure out how to open the football stadium and didn't figure out how to open the schools for the poor children? That is a damn shame. That is why the whole paradigm of how we spend the Stafford act money needs to change, Mr. Chairman. It is too much of a responsibility on FEMA and the governors get a ride.

And I know a lot of governors said we have got a great plan, we know how to do this, but they have not fought a Katrina, either. Katrina broke everything, and any State that gets a Katrina that floods a city of over a quarter million people are going to have the same issues. And it is not so much about the response to saving lives; that will be done. It is the recovery and how we rebuild schools, how we rebuild hospitals. The city of New Orleans has more hotel rooms today than they had before Katrina, yet the 9th Ward is not rebuilt.

And the poor people who rely on most help from the government can't seem to get that help, and I think much of that is ingrained

in the bureaucracy of layering, where the governors and the State legislators have passed the entire responsibility over to FEMA. We saw last year, after hurricanes, as long as everything is going well, the State governments are out cheerleading their people to do the right thing. As soon as there is a bottle of water not in the right place, it is FEMA'S problem.

For every dollar we spend in preparedness, we save $9 in response. The governors of this great United States need to be empowered with Federal money to preposition water and food inside their States, and it is under their control. This habit we have of depending on FEMA to bring water the day after the storm is broke. Having FEMA embedded inside of Department of Homeland Security is broke. The Department of Homeland Security is focused on protecting the Country; FEMA is focused on the survival of the people and to get them back in their homes.

The two are incongruent. We need to fix that and this Congress needs to make that happen. And if you can't make it happen this year, then separate the budget so FEMA can buy the right things they need, preposition food and water inside the States that are most vulnerable and be able to take care of our people, as opposed to going through a chain of command that can take money from and reset priorities.

I bring that to you as a humble servant for 37 years, 3 months, and 3 days in uniform of this great United States, and it is horrible to see how ineffective the current system is. And, again, it is not personal; there are just too many layers of bureaucracy, and we need to put the responsibility back on the governors to take care of their people and FEMA give them resources to make that happen. Thank you, sir.

Mr. OBERSTAR. Thank you very much. You summarized it very well. I think you sized up the situation with clarity formed and honed by experience. Thank you.

Mr. Larson.

Mr. LARSON. Thank you, Mr. Chairman and Members of the Committee.

The Association of State Floodplain Managers is grateful to this Committee for its leadership in exploring the important role that an independent FEMA plays in the Nation's economic and sustainable future.

We acknowledge the declaration that the Administration made yesterday, that they support FEMA remaining in DHS for now. In any case, we agree that it is important that this record be established of what the issues are with the current organization not only for all of us, but for FEMA and DHS to work on those issues to see if we can get them resolved so that we have effective emergency management for the Nation.

Craig Fugate, the new FEMA Director, knows many of these issues and he surely knows the FEMA partners that are represented up here, who have worked in every way we can to address these issues. We understand from some of those folks that Mr. Fugate intends to work to implement those elements of the 2006 Post-Katrina Act that we have talked about here that have not yet been implemented, to add some authority and autonomy to FEMA.

We also have been assured that he has support of Secretary Napolitano to do that. Let's hope that is the case.

Actually, the resurfacing of the debate, as the way the General has stated, today is about mission priorities and organizational structure. FEMA'S reputation rises and falls not only on its own performance, but also on its ability to operate within the constraints that it must have in the organization. As we have talked about here, when it was independent, one of those reasons that it was effective in those events we have talked about was the fact that it did not have to clear every decision, every rule, every policy with some parent agency that wanted to tweak it to fit its mission, and not the FEMA mission.

Such is not the case today, we know that, and making that adjustment is going to be very difficult. Those missions that we have talked about, the mission of DHS states that its mission is preparedness response. It doesn't even mention the word mitigation, and it hardly mentions the word recovery; whereas, that cannot be true for FEMA or FEMA is going to fail.

The terrorism prevention in the DHS mission is not hazard mitigation. Some people would like to claim it is. It is not. It is inherently an enforcement intelligent gathering function before an event occurs; whereas, hazard mitigation must involve communities and all those people the General talked about to get full inclusion. That is the FEMA mission. Neither of those missions are wrong for those agencies, you just need to understand they are totally different.

Some feel that FEMA has regained some of its effectiveness in Ike and Gustav, but I would submit that that is primarily in the area of response, it is not in the area of mitigation. FEMA has not moved the area of mitigation ahead since the days of James Lee Webb; it is still sitting where it was. There is lots to be done there and it has not gotten better.

This culture issue, the culture of DHS is, by necessity, closed and secretive. That is what they do. The culture of FEMA has to be exactly the opposite, open and inclusive. A few examples. You have mentioned some; let me mention a few we have seen; more is in our testimony. This agency effectiveness and declining morale; diversion of human resources and financial resources; slowdowns due to these layers of bureaucracy. There is a ripple effect, also. As States try to mirror DHS, they are doing the same thing, as the General mentioned, and at the same time, they are diverting their money. In a way, they are chasing the dollars, because that is where the dollars are.

Flood mapping is a good example of this disconnect in FEMA DHS. You in Congress have been very supportive of the increased effort to get better flood maps in the Nation. DHS has fought that every step of the way. Despite the support of Congress and OMB, DHS has fought it.

DHS recently gave a grant to build an Emergency Operating Center in the floodplain, a critical facility in the floodplain, without having it elevated or anything. No floodplain regulations applied to it. Well, so much for integrating because they are in the same agency. Those kinds of things can't and shouldn't happen.

The IT functions, the Web site. FEMA needs to have access and use the Web site to get to citizens, communities, and so on. The security of the DHS Web site scenario doesn't allow that to happen.

As a Nation, we cannot afford to continually fund the cycle of build, disaster, bailout, another disaster and bailout over and over again. An independent FEMA provides an opportunity to break this devastating cycle of natural disasters through an emphasis on mitigation, along with its other functions. Our conclusion, we feel that FEMA must be allowed to be FEMA. An effective and nimble FEMA is essential to the disaster resilience of our Nation, our communities, and our citizens.

We still believe they can do this better and more effectively as an independent agency. But, like you, if this does not happen, we will be working the work of FEMA and DHS to implement the changes of the Post-Katrina Act. If they don't work along with you, we will be back again to push for FEMA becoming an independent agency.

Thanks again to the Committee.

Mr. OBERSTAR. Thank you very much for that testimony, that shocking statement about DHS building a preparedness center in the floodplain and then waiving all the requirements. We will come back to that.

Mr. Hauer.

Mr. HAUER. Thank you, Mr. Chairman. Thank you to the Members of the Committee for inviting me here today. My comments will be brief.

As you can see from my biography, I have worked in emergency management public safety at every level of government, at the Federal, at the State, at the local level, under two different mayors, for seven years under Senator, then Governor Evan Bayh, and for one president. I have worked every kind of disaster that you can imagine and any kind that you can think of.

I am in complete agreement with you that FEMA needs fixing. We are at a point in time where we can never again allow American citizens to die in a hospital, waiting for help, because nobody was paying attention. I have seen FEMA in its heyday and I have seen it in its worst. My concern today, as you move forward, is that you do it in a way with this legislation that allows FEMA to succeed as an agency if in fact it can be split out of DHS.

In DHS, FEMA has focused on terrorism, I agree with you. There is no question the pendulum has swung too far in the other direction. I have talked to fire chiefs and police chiefs all over this Nation, and they all are telling me that they have got to get away from focusing solely on terrorism. They have got to get back to the basics of firefighting, training for firefighting, training for law enforcement, and training for emergency management. The problem they run into is that the money that is coming down from DHS is very terrorism-centric and it prevents them from doing some of the things they sorely want to do and sorely need to do.

I am in complete agreement with you that FEMA needs to be a freestanding agency. But I would urge you to ensure that, as it becomes a freestanding agency, that pieces and parts of FEMA are not left behind in DHS, because the FEMA that will come out of

DHS will be so stripped of the resources that it will fail. So you need to ensure that as you move forward with this legislation.

I am also concerned about your desire to split the terrorism response capabilities out of FEMA, because, from my perspective, emergency management is emergency management no matter what the emergency, and that includes terrorism. Yes, the pendulum has swung too far in the terrorism direction, but that was a knee jerk reaction on the part of the Administration post-9/11, and we have got to ensure that, as FEMA gets moved out—and I commend you for your determination to continue this legislation—you have got to ensure that the emergency management function is maintained and that that includes terrorism, that includes earthquakes, that includes tornadoes and all the other components that FEMA is supposed to respond to.

We can't have two agencies coordinating the response to terrorism. At the end of the day, that would be a disaster in and of itself. So as you look at moving FEMA out of DHS, you need to ensure the response component includes all hazards, not just natural disasters, but it also includes terrorism.

The second thing, and I know this is politically charged, is that the new administrator of FEMA needs the ability to get rid of the political hacks that were buried in FEMA as SESers. As the new Administration took over, the old administration buried a lot of these political hacks, and Craig needs the ability to move them out, and the legislation should ensure that he has got that ability, because otherwise he is going to have people in the agency that feel immune from any repercussions that can undermine him as the new FEMA administrator.

Mr. Chairman, I again support all you are doing and I support your determination to get FEMA out of DHS. I think that there are some land mines as you go about doing that, but I think if you keep your eyes open—and I can see that you are—that FEMA can once again be the kind of agency that this Country needs coordinating its emergency response. Thank you, and I will answer questions at the end of the session.

Mr. OBERSTAR. Thank you very much, Mr. Hauer. I really appreciate your seasoned experience over many years and through many different administrations. Thanks.

Mr. Gispert.

Mr. GISPERT. Thank you, Mr. Chairman and Members of the Committee. I am Larry Gispert, the Director of Emergency Management for Hillsborough County, Florida, the Tampa Bay area. I am the immediate past president of the International Association of Emergency Managers, IAEM-USA, which is our Nation's largest emergency managers association.

Mr. Chairman, we are aware that the Administration put forth their position yesterday that the Federal Emergency Management Agency, FEMA, should remain within the Department of Homeland Security, DHS. Be that as it may, the position of IAEM remains in support of an independent and strengthened FEMA. Please permit my testimony that I give today to be used to point out areas to strengthen FEMA, regardless of its structural location.

A successful FEMA is one with the authority, independence, and flexibility to make final decisions as quickly as possible. FEMA

must continue working closely with its stakeholders. At the local level, our involvement with FEMA continues during the long months, and sometimes years, it takes to recover from a major disaster. We need to point out that there still remains a fundamental difference in the mission of FEMA and DHS. The mission of DHS is clearly to prevent the next terrorist attack and secure our borders. The mission of FEMA is to respond and recover from the impacts of all disasters, regardless of their cause.

It has been said that keeping FEMA in DHS is like requiring the Department of Defense to fight the war as well as implement diplomacy, which is normally done by the Department of State. Like the analogy just given, combining consequence management—dealing with the impacts—and crisis management, preventing and arresting the perpetrators—has proven contradictory, and both will suffer from the continuing inclusion. Both missions are vitally important to our Country and one should not detract from the other.

Just as there is a difference in mission, there is also a mission in culture. FEMA must maintain consensus and buy-in from its stakeholders, while DHS is more top-down oriented, using mandated and strict procedures. Since the creation of DHS, we at the local level have noted a total lack of understanding of how States and locals work.

Some have said that the structure of FEMA within DHS does not matter, that good leadership will overcome poor structure. Any student of organizational behavior will tell you that you must have both, good leadership and properly laid out structure. We would strongly suggest that structure does matter because of the significant structural impediments caused by the subordination of FEMA to DHS. Some of these include: not accepting the Congressionally mandated role of the administrator of FEMA as providing the Federal disaster leadership; the continued insistence by DHS on appointing a principal Federal official, PFO; by assigning functions to the Office of Operations Coordination which the Post-Katrina Emergency Management Reform Act, PKEMRA, assigned to FEMA.

Priorities are set through budget requests. FEMA must submit its budget request through DHS and not directly to OMB for consideration. This permits DHS to reallocate funds to programs not related to FEMA'S core mission. Regulations are also important tools to implement policy. The additional layers of DHS review make it difficult for FEMA to get their rules promulgated.

After the failures of Katrina, Congress passed the PKEMRA to give FEMA the clear authority and tools to do its job, and put a fence around it to give the protection for its mission and resources within the Department. Some contend that the passage of the Act has resolved the mission competition within the Department. However, key provisions of the Post-Katrina Reform Act have not been implemented. The law is being ignored. Homeland Security Presidential Decision Directives 5 and 8 have not been revised to coincide with the law. We have always thought that public law trumps presidential directives. My written testimony contains several specific issues concerning the lack of compliance by DHS with PKEMRA.

It is clear to us that a misunderstanding still exists with DHS concerning the definition of emergency management and incident management. We all know emergency management is the overall broad collection of functions specific to disaster preparedness, response, recovery, and mitigation. Incident management is a smaller subset which deals specifically with one incident. IAEM-USA applauds the appointment of Secretary Napolitano, Craig Fugate as FEMA Administrator, and Tim Manning as Deputy Administrator for Preparedness. We commend the President on nominating individuals with prior State and local emergency management experience.

In conclusion, IAEM-USA still strongly recommends that the President and Congress consider removing FEMA from DHS and make it an independent agency reporting directly to the President with the FEMA Administrator as part of the President's cabinet. In lieu of this, and FEMA remains within DHS, we strongly suggest that Congress insist on the full implementation of PKEMRA and consider the issues pointed out in our testimony.

Mr. Chairman, thank you for permitting my testimony.

Mr. OBERSTAR. Well, thank you very much. You have raised some very thought-provoking issues here. We will come back to them in the question period.

Dr. Moss.

Mr. MOSS. Thank you, Mr. Chairman. My name is Mitchell Moss. I have been on the faculty of New York University for about 35 years, and I am going to speak briefly today, since some of the other panelists have addressed the key issues facing this Committee.

Let me first say that I admire your prescience for anticipating the challenges that would occur when FEMA was folded into Homeland Security more than half a dozen years ago. It is regrettable that you were right, but now we have to still deal with those challenges.

I want to talk very briefly on two points, and I think they were raised earlier.

FEMA has to do two things. One, it has to mobilize other Federal agencies in the disaster and then it has to work with civic groups and State and local governments in dealing with both recovery and response when disasters occurs. In both cases it is much more elegant and certainly easier to do it as an independent agency, as the chart we saw earlier today indicated.

It is clear, though, if FEMA were to remain in Homeland Security, the challenge is even greater of how to structure it to assure that it can do this job; and in some ways it is even more ways to pay attention to the legislative challenges because, should it remain in this case, then it is essential to design an organization so it has the authority to do two things, to act quickly and to act flexibly.

We have developed a great capacity to predict disasters. We don't really know when they are going to occur, but we have great ability to anticipate hurricanes that we didn't have over 10 years ago. But we cannot predict the way in which they disrupt a community. We simply cannot foresee what they do to destroy a community, both its physical and social fabric. And when they do occur, disasters

don't go away even when the hurricane ends. Disasters become part of a fabric of a community; they become part of a way of life.

And the fact is that some disasters—and you can look at the floods in Johnstown, Pennsylvania—they are still there. The people remember them and they are going to be part of that forever. I think that is why FEMA is so important, because it is not fighting a battle, it is waging a long-term relationship to assure that a community recovers.

Any organizational structure that adds delay costs lives and puts communities at risk, and I think it is essential that we design FEMA, should it be independent or should it be part of Homeland Security, so that it can provide assistance and resources to States and localities quickly and without meeting the bureaucratic burdens that come with an agency that has over 180,000 employees. Let's think about it, FEMA has 2,500 people; there are 180,000 people in Homeland Security. How important can it be when it constitutes such a small share of an organization?

Mr. OBERSTAR. Dr. Moss, it is now 215,000 people. It growed like top seed, to quote that——

Mr. MOSS. I appreciate the correction and I am going to change my remarks to reflect that. Thank you very much.

The second point I want to make, and I think this is very simple and I will just end on this point, is that no matter what we do in dealing with disasters, we know they continue to occur. Fires, earthquakes, tornadoes, we are going to continue to have them. Most of the responsibility for dealing with them it is a State and local responsibility. FEMA'S has to be able to find ways to deal with the very different conditions that occur in all 50 States.

Having an organization which is accustomed to dealing with a single type of strategy doesn't work when you deal with communities, each of which has to adapt to its own disaster. I think for that reason alone I think it is essential that we assure that in any redesign of FEMA we recognize that it has to be able to work effectively with State, local, and civic groups.

I want to make one point We have done a study of the Stafford Act. I will deal with the staff later. But in certain cases we have to expand the definition of who emergency responders are and we have to change the way we aid local governments. Right now, as you may know—and I will simply end with this—we provide overtime for State and local employees in the even of a disaster, but in New Orleans they had to lay off 30,000 employees of local government because there weren't the resources after Katrina. So an important element in any revision is to recognize that it is not sufficient to just help pay overtime; we have to find a way to assist the government who have lost their tax basis after a disaster.

Thank you very much.

Mr. OBERSTAR. Well, this is splendid testimony of all five of our witnesses. Dr. Moss, you are a great wrap-up presenter. I thank you very much for your commentary.

I want to come back to a fundamental issue here. In the 1980s, when our Subcommittee first dealt with the issue of emergency preparedness and management, two separate issues, preparing for and then managing incidents, the real question was who has the first line of responsibility. Should that be a State or a local govern-

ment agency, or should the Federal Government be the primary responder? The evolution of governmental response began perhaps in a formal way in the 1930s, during the Dust Bowl era and the floods that resulted from the Dust Bowl, and then the intervention of the New Deal and Roosevelt. But there still was no real formalized structure.

In the post-war era, as we were all, the Federal and State governments, responding to the threat of nuclear war, handed that responsibility over to civil defense, and the civil defense agencies all were prepared; they had structure, they were in almost every county in the United States, they had mobilization capability, they had structure, and gradually, gradually, cities, counties, States turned to their civil defense authority. We have got a flood, we have got a hurricane, we have got a huge blizzard here in the north county. Civil defense, you take charge of it, mobilize, and cities turned to their civil defense authority. But we didn't have any formalized structure.

What we tried to do in what became known as the Stafford Act was to develop first line of responsibility, second line and backup responsibilities. So is it clear in your mind, this panel, where that first line of responsibility lies for response to and, prior to that, preparing for disasters?

Mr. HAUER. Mr. Chairman, I don't think there is any question in the minds of people in this business that the first response is a local one, and that is supplemented by the response at the State level and then the Federal response. But the first response is and has to be at the local level; they own it and it is critical that it stay at the local level.

Mr. OBERSTAR. Well, in the event of a massive rainfall resulting in a flood and tragedies of various sorts, the governor is the one who has to make the formal request to the President for assistance, and the governor is petitioned by local units of government.

Mr. HAUER. Right.

Mr. OBERSTAR. Is that an effective way to continue sort of the chain or sequencing of response to disaster?

Mr. GISPERT. Mr. Chairman?

Mr. OBERSTAR. Yes.

Mr. GISPERT. I have got 28 years experience at the local level. The locals have to own the disaster. We are there when CNN goes home, when FEMA goes home, and when the Federal Government goes home. The reason Florida is as adept as it is at disasters is we developed a very good intrastate mutual aid system where county governments and city governments help one another. We are trained and our thing is we don't ask for help until the matters exceed our capabilities. We then first go to our State, who then asks the other local governments in the same State can you help Hillsborough County. If the answer is yes, we handle the situation and the Federal Government doesn't get involved.

Now, there are those events that are beyond local and State capability. That is when we propose that FEMA and the Federal Government get involved. We would object to the Federal Government showing up on my doorstep prior to the landfall of a hurricane, not knowing what my needs are, because the Federal Government comes in like an 800 pound gorilla and sort of pushes their way

around, and they may not have the resources I—if they would have waited until the event and asked me, Larry, what do you need, and I tell them, then they send it, they are going me a whole lot much better than showing up before the event and saying we are not here to be in charge, but, by the way, we are going to do it this way.

So, yes, the locals must own it, because they will own it forever, and they must do everything within their capabilities to handle the situation. And when it exceeds their needs, then they ask for help.

Mr. OBERSTAR. Well, that is what I heard in 1987, when we first addressed this issue. I am glad to see that you are seasoned practitioners of disaster, but, General Honore, was that the way it worked in New Orleans?

General HONORE. Well, that worked when you have a normal hurricane, and the scenario just described is what was happening in New Orleans before Katrina. The governor had it until the levees broke. If the levees hadn't broke, the system would have worked.

I think in the reform of the Stafford Act not every State has the resources Florida has, so places like the State of Louisiana and the other Gulf Coast States—I mean, let's face it, the storm hit the two poorest States in the Nation, Mississippi and Louisiana, and there were a lot of problems there before the storm. So after the storm passed, the recovery of that region, a lot of the infrastructure was bent, if not broken, before the storm, such as the flood mitigation, the large population of poor people along the Gulf Coast.

So I think the role the Federal Government can play is help the States preposition the right type of food, water, emergency communications in the State before the hurricanes come. Last year we saw Gustav. We saw a good effort on the evacuation, but we were having to move water into Texas and into—after Ike and after Gustav in Louisiana after the storm. That doesn't make any sense. We need to change that and empower the governors to be able to request and get pre-positioned food and water in their States.

We need to also allow FEMA to publish what are the rules for hurricane season, Mr. Chairman. Hurricane season starts 1 June. If you live along the Gulf Coast, you make $30,000 a year, you have a wife and three kids, more than likely, you are going to have to evacuate. If you have to evacuate, is the government going to reimburse you for hotels? We still haven't told the people that. Last year, after Gustav, the people found out after the storm you have to go sit in a tent somewhere for half a day, this is America; we again looked like a third world country, and apply for assistance.

We have got to stop that. We know we are going to have to evacuate those populations that are in flood-prone and hurricane areas. We need to preregister people. And that is the type of thing FEMA can do if they are allowed to do it, along with the States, as opposed to focusing on counterterrorism. We need to focus on the people more, and I think if we can give the States the assets and they are under their control, and then FEMA be in support of those governors, we can recover quicker and we can be there more responsive to the people, sir.

Mr. OBERSTAR. Thank you. You mentioned pre-positioning water. That was an essential element of the civil defense nuclear disaster

preparedness. There were barrels of civil defense water stored in schools, in city halls, in buildings. People built their own shelters in their backyards and had water. This is not new. And hurricanes aren't new. My wife is from New Orleans.

General HONORE. Sir, we have got to live through——

Mr. OBERSTAR. Lived through hurricanes all her life. We know how to deal with this. But someone wasn't coordinating, wasn't preparing, wasn't putting it all in place properly.

Mr. HONORE. We need a cultural shift, sir. It starts in the family, goes to local communities, that you are your own first responders. You have got to take care of your family and then the local community has to be empowered with pre-positioned stocks and the authority to spend money to get the people prepared. Until we do that, we are going to continue to pay $9 for that bottle of water, when we should be paying one. For every dollar we spend on preparedness, we save $9 in response.

Mr. OBERSTAR. That is what we are going to have to do. We can't have a situation where, as Joey DiFatta, who is the deputy—mayor is not the right word—of the Parish Council of St. Bernard Parish, and after hearing appeals from his constituents, one after another, for a FEMA trailer, and FEMA not doing anything, he finally, one Saturday, went over to the FEMA lot where they were all parked, got a wire cutter, cut the chain locking those FEMA trailers up, hooked one up to his pickup truck and hauled it out to his constituents, said here they are. And along the way he got a call, after about five or six of these, got a call from the U.S. attorney in New York saying I understand you are taking trailers from the FEMA park. Do you know that is a Federal crime? Tell me where you are. He said, do you think I am that foolish? You come find me and help me deliver these trailers.

We don't want situations like that. This is America. We can and should do better. You see that in third world countries.

Now, one question. The Federal coordinating officer and the principal Federal official, that created confusion in the chain of command. When we move this legislation, we are going to strike that authority for principal Federal official and leave Federal coordinating officer in place and restore order, rather than allow conflict to continue.

Mr. GISPERT. Mr. Chairman, we don't care what you call him or her. If you want to call it principal Federal official, that is fine. But we need one belly button to push as a local jurisdiction when we are looking for help. We don't want one guy looking from the political side and the other from the operational. Call them what you want, but tell us this is the person that is representing the Federal Government. If you have an issue and a need, you talk to that person, and that is what we will do. And that is why we have problems with PFO and FCO, because if you have both of them assigned, then who is in charge and who do you go to for help?

Mr. OBERSTAR. Thank you for your counsel.

I am going to ask Mrs. Napolitano to take the Chair. I will have to go to another meeting. I will return later, but we will now turn to Mr. Diaz-Balart.

Mr. DIAZ-BALART. Thank you again, Mr. Chairman.

Again, thank all of you for your very insightful testimony.

Before I say anything else, I want to thank you, General, for your service to the Country. There is nothing more honorable than that and, again, we are in your debt.

All of you as well, obviously, but the General has served in the armed forces and, to me, there is no more honorable way to serve our Country.

A couple questions. General, I was glad to hear in your last statement you talked about personal responsibility. My concern is being, again, a Floridian and seeing how Florida is away ahead of the curve. Not perfect, nobody is; these are human institutions.

But one of the reasons that it works so well is precisely as you said, because there is an insistence on making sure that individuals know what our responsibility is, and we are constantly hounding that you have to be self-sufficient for three days. In worst case scenario, water, food, whatever it may be, medicine for three days because you cannot necessarily count on the Government coming in for those first three days. You hope that they will be, but you never know. Number one.

Number two is that obviously we also have to make sure that we don't let the locals and States off the hook by thinking that the Federal Government can solve all our problems, because ultimately the Federal Government doesn't have fire trucks, ambulances, rescue. Those are local. Actually, not even the States. Locals have that and the State have a great responsibility.

When we look at Katrina, one of the many things that we saw, obviously, there was a failure of FEMA, but there were huge failures on the local level; buses that weren't used, et cetera, et cetera, et cetera. No amount of Federal Government intervention is going to be able to solve that, and you mentioned that.

If you all want to comment a little bit about that, because my concern is that is why I am so excited that Mr. Fugate, by the way, is the new Director. We could not have a better person. My concern is that we don't overreach to a point, then, that the States kind of hang back and the local governments hang back and say this is a Federal responsibility, we don't have to do as much. If you can just, if you want to touch on that, and then I have another question for the General once we touch on this, however you all want to touch on it.

Mr. LARSON. I do want to address that. You are right, the reality is that we are talking a lot about the response side, and that has to be dealt with. But if we were doing the right thing, what we do is avoid the response, and that is where mitigation comes in.

And who has the authority to prevent these disasters from creating tomorrow's disasters? It is the State and local government, because 99 percent of how you prevent them is land use. Don't build in the wrong place, don't put your critical facilities in the wrong place, on and on and on. That is land use. The Federal Government doesn't have any authority under our Constitution for land use; it all rests with the State and local government. And until we devolve that responsibility to them, along with the money we keep throwing at them, this problem isn't going to change.

Mr. GISPERT. Congressman?

Mr. DIAZ-BALART. Yes, sir.

Mr. GISPERT. I am in the latter phases of my local government career. In fact, in 626 days I will retire.

Mr. DIAZ-BALART. But who is counting?

Mr. GISPERT. But who is counting. And I am taking these last two hurricane seasons as a tough love. I am looking my citizens in the eyes and saying the economics are bad. You don't want to pay taxes. You don't like local government because your taxes pay our salaries and you are voting to lower us, and we are laying people off. Then take responsibility.

In my community, well over 80 percent of the people are physically, mentally, and economically capable of taking care of themselves. I just need to give them some guidance of where to go and stuff like that. The other 15 to 20 percent are the elderly, the infirm. Those are the ones that government can take care of. But I can't sort through healthy people who are just milling around to get to those people.

When I tell them to evacuate, evacuate. Don't discuss it, get in your car and go. Okay? When we tell you to pre-register, and you are an 83-year-old woman that lives in a trailer in the center of the county, and you have no family, and you have all kinds of medical devices, and we have got to come get you, we have got to know where you are at. They don't want to register until the storm is 100 miles away from Tampa, and, you know, that is a big logistics problem of getting to them. Personal responsibility.

The Conestoga wagon days, remember that from your history? The people marching westward. The lady was pregnant, she had her baby. She just got off into the bushes, had the baby, wrapped it up, got back in and started marching to Oregon. Be responsible. Be resilient. Don't count on your government for everything. If you do count on your government, we will all fail you at one time or the other, because we don't have the resources, manpower, and capabilities of being all things to all people.

I have 1.2 million people that reside in my county. If I had to reach out and touch every one of them individually, it would take me three years to talk to them. So please help us. Personal responsibility. It is your responsibility. You live in this Country. Be prepared. The General is right on, preparedness is where you are at. It will save you money, save you time.

Hurricane Wilma hit in 2005 in Broward County. Within an hour after the wind letting, people were queuing up at the points of distribution, wanting their water. And I asked them where is your hurricane kit? Congressman, you are from Florida. You are supposed to have a hurricane kit, right? And we asked them where is your hurricane kit. Duh. There were thousands of people standing there. The storm had just left.

Mr. DIAZ-BALART. Well, we had the case in Dade County where people were waiting in line to get water, when we did not lose water; all you had to do was open your tap and drink the water.

Mr. GISPERT. So, anyway, personal preparedness. That is my message for the next two years. Then, if you need help, we will come do the best we can. Take care of yourself.

Thank you.

Mr. DIAZ-BALART. Yes, Mr. Hauer.

Mr. HAUER. Congressman, we, for years, have been pushing people for personal preparedness. We have done it for earthquakes, we have done it for tornadoes, we have done it for hurricanes. The problem is the further you get away from an incident, the more complacent people become, and it is a very difficult task. I was the Chairman of the Central U.S. Earthquake Consortium.

In 1990 we had a prediction by a scientist, who turned out to be a kook, that said that we were going to have an earthquake on the New Madrid Fault on December 2nd, 1990. People were spun up like I have never seen before. Everyone had earthquake kits; schools closed. We had close to 600 members of the media down in New Madrid, Missouri and Blytheville, Arkansas. Everybody was earthquake focused.

If you go to that area now and ask people about their earthquake kits, people will look at you like you are crazy. And it is the same thing with pretty much any other kid of disaster. The further way you get from it, the more difficult it is to get people to prepare.

Mr. DIAZ-BALART. If I may, Madam Chairman, one last question, if that is all right.

Mrs. NAPOLITANO. [Presiding] We have a vote coming up.

Mr. DIAZ-BALART. Thank you. I will be brief.

One of the arguments against taking FEMA out, General, or keeping it within DHS, is the fact that you have access to the military coming in. You have access to all these resources if FEMA is within DHS. We all remember, after Katrina, where we saw people on the roofs until the Coast Guard came in and rescued them.

Now, my understanding is that that was done by the Coast Guard under its own authority, not at the request of FEMA. But it seems to me that obviously access to responder assets is the key, is the important issue that we are dealing with here. So we obviously need a system where FEMA has the best access possible to those military assets, because, when it is needed, it is needed in a big way.

So if you could tell us about your experience during Katrina. If FEMA'S position within DHS, within that bureaucracy, delayed or negatively impacted the speed or the type of response provided by the military? Also, if you believe that FEMA'S access to DHS assets would be diminished if FEMA was taken out of DHS.

Thank you, Madam Chair.

General HONORE. Yes, sir. I think FEMA can deal with the military. It dealt with them for years prior to the current arrangement through Department of Homeland Security, so I think that can happen and happen quickly. DHS adds a layer. Katrina, which is the construct we have now, a mayor would ask FEMA for 10 generators. They would take it to the State person, the State person would take it to FEMA, FEMA would send it back to Washington, somebody at DHS would look at it, and then some lawyers would sit around. That same mayor would ask me for generators, I make a phone call and the generators are on the way.

When we create these layers and FEMA doesn't have the authority to act, the people in FEMA know what to do; these are good people. They are good public servants. But when you create that layer and that protective service of DHS, which themselves are good people, but they are focused on security—you know, we were

flying the people out of the Convention Center. We had a little tiff trying to get the airport open in New Orleans because the people at DHS wanted to make sure nobody was getting on the airplane with guns. Hello.

So we are applying prior to Al Qaeda activities because the St. Bernard is trying to save the people, and you have got the pit bull and the German shepherd who is trying to protect them, and the St. Bernard loses every time.

Mr. DIAZ-BALART. Thank you. Again, thank you all for your service.

Mrs. NAPOLITANO. Thank you very much. We are running short of time and I wanted to be sure that we get some of the questions in. I will submit some questions for the record because I do have some.

I do have a couple comments. Being from California, Mr. DeWitt, prior FEMA director, was one of the best recognized and beloved in California for his quick response during the earthquake and fires, and everything that hit California. There was great concern amongst a lot of us in regard to the trailers that were sitting and not being put into use, and then later to find out that some of those trailers had toxics in them that were hazardous to the people that might inhabit them. We are hoping that, as you are saying, they worry not just about the one aspect, but worry about the whole aspect of helping people. Those questions are going to be into the record.

The other would be a program to be able to say for information. You talk about prevention. Back in the day, when I was in school, I remember going under the desk because there were earthquakes. We were, as children, trained. We have gotten away from that. We have not continued to tell people it is your responsibility to take care of yourself, too; it isn't just government to take care of you.

But, Mr. Gispert, can you explain the consequence management, what it is and how it works with non-natural disaster events such as terrorist attacks or pandemics?

Mr. GISPERT. Yes, ma'am. Regardless of what event that is going on in your community that is above normal everyday activities, there are need for such things as alerting the citizens, sheltering the citizens, feeding citizens. Those are consequences of the event. DHS does not have the experience in that mode; FEMA used to have that experience. So it is our point of view, regardless of what happens, terrorism, pandemic flu, there are going to be consequences that must be managed, and FEMA and emergency management manages those consequences better than anybody else. So in order to have them focus strictly on catching the bad guy, who did that, focus on taking care of the citizens, as the General says.

Mrs. NAPOLITANO. Very quickly, on page 5 of your testimony, you state that in the last Administration FEMA served as the piggy bank for DHS. Can you elaborate very minimally on this, because I would like to give my colleague a chance to ask a question. Do you believe access to the large amounts of funding FEMA disburses through the Disaster Relief Fund is a motivating factor for DHS to want to retain FEMA?

Mr. GISPERT. Yes, ma'am. We were made aware of that. When DHS was initially stood up, there were expenses in bringing the

Department on hand. Much of that money for those expenses of bringing DHS online were out of FEMA coffers.

Mrs. NAPOLITANO. Were there specifics?

Mr. GISPERT. I don't have the actual dollar——

Mrs. NAPOLITANO. Would you provide them to this Committee?

Mr. GISPERT. We will try to do that for you.

The other thing is personnel were diverted away from their FEMA mission and then went to the bigger DHS mission, such as your public relations people, your outreach people. FEMA now has a very small cadre of four or five people doing that, when they had, at one time, 16, 17 people. Those people were diverted over for the Department's use. Those are the issues that we are talking about.

Mrs. NAPOLITANO. You are talking about decimating the personnel that really focused on FEMA.

Mr. GISPERT. Yes, ma'am.

Mrs. NAPOLITANO. Okay, Mr. Hauer, in your testimony, you stated you support legislation that FEMA be removed from DHS, but terrorism response must come from FEMA. H.R. 1174 would make FEMA responsible for the response to all hazards under the Stafford Act, including terrorist attacks, as FEMA did in 1993 and 2001 in New York and 1995 in Oklahoma City. Are there other response activities you believe the legislation does not address?

Mr. HAUER. No, I believe the legislation does address them all. I was concerned about the one issue with terrorism. As I said in my testimony, an emergency is an emergency is an emergency. FEMA needs to be able to coordinate the response to any type of incident, whether it is manmade or natural.

Mrs. NAPOLITANO. Thank you.

Mr. CAO. Thank you, Madam Chairwoman.

Madam Chairwoman, I hold in my hand here a Congressional study entitled A Failure of Initiatives in connection with FEMA'S preparation and response to Hurricane Katrina. But having lived through the tough and the odious task of recovery with thousands of people in the 2nd District, I believe FEMA'S greater failure lies in recovery.

FEMA presently does not have a recovery plan, and I believe that the Stafford Act in its present form does not provide FEMA with the flexibility to address the many variables in connection with devastations the size of Katrina. We were able to, with the help of Chairman Oberstar and the Ranking Members, to reform the local TRO office to expedite many of the projects and to advance the recovery process, but I believe that FEMA continues to be a party in opposition rather than an agency in cooperation in the recovery process. FEMA'S recent denial to provide the necessary money to rebuild Charity Hospital is another indication of how FEMA is out of touch with the suffering poor and the struggling institutions.

I would like to know from this panel how can we provide FEMA with the necessary tools for recovery. Mr. Gispert?

Mr. GISPERT. Mr. Congressman, there are four phases in emergency management: preparedness, response, recovery, and mitigation. They are four equal needs. As of late, because of Katrina, FEMA has focused on the response phase and the pre-positioning of food and stuff. They need to also focus on recovery, how do we

get the money in the right hands to get the community back; mitigation, how do we prevent it from happening.

All four phases are equal and necessary and need attention. They do not need to only focus on one portion of it. If they do, the other three will suffer. And for it to work, all four must be equal, ready, raring to go, and you need to recover. And, yes, you are correct, in my 28 years of experience with FEMA, they have always failed miserably in the recovery phase, because the cameras have gone home, it is now two or three years later, you are still trying to get that elementary school back online, you are still trying to get the hospital back online, and then we get into, well, here were the rules on the day of the event, and we will refund this, we won't reimburse this. And then you get into the lawyers and everything else.

We have not recovered money from the 2004 hurricane season in Florida, and it is now how long? It is now five years later. We will probably not recover that before I retire.

Mr. CAO. Yes, General.

General HONORE. I echo those sentiments, but we need to have a cultural shift and we need to have a shift in government. If you look at the Tampa Bay area or you look at the New Orleans area or you look at the Hampton Roads, we have too many itty-bitty governments with too many mayors in charge and too many people trying to make decisions. The States are going to have to look at the emergency response plan, because who does FEMA respond to? In a parish where there are four or five different mayors, we have got to try to coach the States to be compliant in how they set up their emergency response, because right now it is too many people requesting assistance from the Federal Government at the same time.

Mrs. NAPOLITANO. Thank you. I think I am going to have to recess because we have three minutes to get across the street. So please hold your thoughts. We will recess until after the votes. Thank you.

[Recess.]

Mrs. NAPOLITANO. The Committee will resume.

Mr. CAO. [Remarks off microphone.]—especially those of the poor are suffering from the lack of health care, and while hospitals are lingering on the verge of bankruptcy because they took it on themselves to provide indigent care for the poor, while FEMA is tinkering with the values of doorknobs and toilets, how do you propose FEMA to be more people-centered, rather than rules-centered?

Mr. HAUER. FEMA has always been rules-centric, for as long as I have dealt with FEMA, since it was organized under President Carter. The problem you run into is because they are giving out so much money post-disaster, they have got to have a set of rules, because they come in and audit it. The problem you run into is they do focus on doorknobs rather than rebuilding a hospital that sorely needs to be rebuilt, and I found, when I was a director in New York City and when I was a director in Indiana for seven years, that sometimes you just have to bring them to a hearing and embarrass them; and that is what we did.

We had an ice storm in Indiana, when I was working for Evan Bayh, and they declared a major disaster but they never funded it.

They basically told us we are going to give you X in dollars, but, by the way, we don't have the money. So the governor said to me, go to Washington. There was a FEMA hearing, which some of us remember, and I just beat the hell out of them.

And I think as a Member of the Committee, bring them before the Committee and ask them why they—I think it is unconscionable that they are not rebuilding a hospital. I don't know how you can get away with that.

Mr. CAO. Now, what I have seen in the last several months is that there is simply a lack of coordination between the different Federal agencies in the recovery process, especially devastation the size that Katrina cause. There is the Federal coordinator, but she, I believe, lacks the power to really coordinate the different agencies. Should FEMA be the point man in the recovery process and also be the coordinating entity to coordinate all the Federal agencies in the recovery process?

Mr. HAUER. Yes. Absolutely. The problem is there needs to be one agency that coordinates a response and recovery. The problem is a lot of this boils down to dollars and them not wanting to spend the money, and that is where you run into trouble. They use the rules to hide behind so that they don't have to spend the money, and that is where you really need to be able to get them to come before a Committee or come before the public and explain why they are not providing the funding. It is as simple as that.

Mr. CAO. Yes, Mr. Gispert.

Mr. GISPERT. We need rules. We are a Country of rules and laws. But everybody needs to know what the rules are before the event, and we don't need a Federal agency changing the rules as the event occurs.

Now, I will give FEMA some credit. Every time they have ever tried to get creative, any time there was any wiggle room, two years after the event, the Inspector General and GAO comes and bangs them hard for not following the rules; and many local jurisdictions have had to give back money they got that they thought they were legitimately owed.

So tell us what the rules are, let's explain what the rules, everybody understand, then let's play the ball game, and don't change them. In my case, in 2004, FEMA clearly said we will not reimburse for the removal of tree stumps after a storm. Well, in the middle of it they change; well, we will reimburse for tree stumps as long as it is in the government right-of-way. So then we had to go show them the hole where the tree existed, and we had to show them that the hole was in the right-of-way. That was the issue.

It is funny because a tree stump is a tree stump. We spent over $30 million clearing tree stumps, for which we will not get reimbursed because the rules changed.

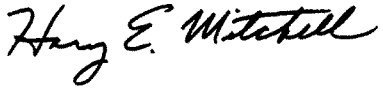
Mr. CAO. Thank you very much, Mr. Gispert. Our time has expired.

Thank you, Mr. Chairman.

Mr. NADLER. [Presiding] Thank you.

If there are no further questions or questioners, I thank the witnesses for their attendance, I thank the Members, and I declare the hearing adjourned.

[Whereupon, at 2:33 p.m., the Committee was adjourned.]



Statement of Rep. Harry Mitchell
House Transportation and Infrastructure Committee
5/14/09

--Thank you Mr. Chairman.

--This summer will mark the fourth anniversary of Hurricane Katrina. If there is one lesson we have learned from that experience, it is the importance of a well organized, well run Federal Emergency Management Agency (FEMA).

--From 1979 to 2003, FEMA operated as an independent agency, which reported directly to the President of the United States.

--In 2003, Congress moved FEMA into the newly created Department of Homeland Security.

--After the Katrina debacle, Congress enacted the Post Katrina Emergency Management Reform Act of 2006, which, among other things, was supposed to increase FEMA's autonomy within Homeland Security.

--However, despite this change, concerns remain about the adequacy of FEMA's independence.

--I look forward to hearing from our witnesses.

--I yield back.

Eleanor Holmes Norton

STATEMENT OF
CHAIR ELEANOR HOLMES NORTON
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

"An Independent FEMA: Restoring the Nation's Capabilities for Effective Emergency Management and Disaster Response"

MAY 11, 2009

Today's hearing will address the longstanding issue of FEMA's Independence. Today we will hear from emergency management organizations, academics and disaster experts on the merits of FEMA becoming an independent agency. Although I originally supported placing FEMA in the Department of Homeland Security, I have repeatedly questioned the wisdom of placing FEMA, which was universally recognized as a nimble and effective organization when independent, into the larger DHS bureaucracy since then that time. In the aftermath of Katrina, I believed the Post Katrina Emergency Reform Act would offer FEMA the independence and flexibility it needed to be successful. The Post Katrina Emergency Reform Act kept FEMA within DHS and I have been willing to give this reform a chance to see if it works. However, in light of the disregard DHS is showing for even the modest FEMA reforms enacted in the recent years, I think it may be time for Congress to revisit whether this country can afford to continue to have FEMA remain in the Department of Homeland Security. On February 25, 2009, the

leadership of this Committee introduced H.R. 1174, the FEMA Independence Act of 2009. I am pleased to be an original co-sponsor of the bill.

This hearing is a culmination of an aggressive oversight and legislative agenda of on the viability of FEMA. Since January 2007, the Transportation and Infrastructure Committee has held a dozen hearings on the operations of FEMA, including hearings on the housing plan, FEMA's emergency food supply plan, FEMA's preparedness and response to all-hazards, and other topics. Our efforts have been aimed at addressing FEMA's shortcomings that were readily apparent in the aftermath of Hurricane Katrina.

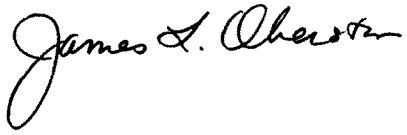
Hurricane Katrina made landfall on August 29, 2005, and proved to be the costliest natural disaster in American history. The storm had a massive physical impact on the land and more than 80 percent of the City of New Orleans flooded; which is an area seven times the size of Manhattan. Under the authority granted to the President in the Robert T. Stafford Disaster Relief and Emergency Assistance Act., 42 U.S.C. 5121-5207, the President declared a Major Disaster in the States of Mississippi and Louisiana on that date.

Historically, when catastrophic or unusual disasters struck, FEMA and Congress would work cooperatively to identify areas where FEMA needed specific authority or direction. However, circumstances were different with Katrina. When Katrina struck, FEMA was not a flexible or independent government agency. Rather, FEMA was an organization within the

Department of Homeland Security, a larger bureaucracy, and without direct access to the President and Congress. Since Katrina it has become readily apparent that major decisions are made or approved in the office of the Secretary, notwithstanding the provisions of the Post Katrina Reform Act that make FEMA as a distinct entity within the Department of Homeland Security. It is my opinion that this structure prevented FEMA from engaging with Congress as they have in the past. This problem was further magnified by the unprecedented scope and magnitude of Katrina. As a result the leadership of the Transportation and Infrastructure Committee has decided to lead the charge in returning FEMA to its status as an independent agency that reports directly to the President.

Today we will hear from experts that have been able to carefully examine the arguments on whether FEMA should once again become an independent agency. I expect we will hear about a number of instances when FEMA would benefit from being an independent agency. The devastation and aftermath of Katrina requires that we look at disaster preparedness, response, and recovery differently and that requires that FEMA be restored as an independent agency.

I look forward to hearing from today's witnesses this morning.



STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
HEARING ON "AN INDEPENDENT FEMA: RESTORING THE NATION'S CAPABILITIES FOR EFFECTIVE EMERGENCY MANAGEMENT AND DISASTER RESPONSE"
MAY 14, 2009

Today, the Committee will receive testimony on the performance of the Federal Emergency Management Agency (FEMA) and whether the agency can effectively perform its vital function of helping communities and citizens prepare for, respond to, recover from, and mitigate disasters and emergencies as a component of the Department of Homeland Security (DHS).

FEMA was created by President Jimmy Carter on April 1, 1979 and functioned as an independent agency reporting directly to five Presidents from 1979 until 2003. During the Clinton Administration, FEMA's status was elevated and FEMA Director James Lee Witt became a member of the President's Cabinet.

As an independent agency, FEMA responded to a wide range of natural and man-made disasters including the Northridge Earthquake, the 1993 Midwest floods - and both the 1993 and 2001 terrorist attacks on the World Trade Center. FEMA was considered a model government agency in its last ten years as an independent agency, under both President Clinton and President Bush.

On September 11, 2001, our nation was shaken by horrific terrorist attacks on our soil. In response, Congress passed, over my objection, the Homeland Security Act and on March 1, 2003, the Department of Homeland Security was formed by consolidating 22 agencies into a huge new bureaucracy. FEMA was one of the agencies subsumed, and President Bush delegated responsibility for administering the Federal Government's disaster assistance to States and local governments to the Secretary of the new Department.

Many observers during this tumultuous period in our nation's history commented that September 11 attacks "changed everything." It is indisputable that our nation has rightly heightened its attention on the threat of terrorism. Yet this has been done at the expense of meeting the needs of the American people with respect to all other disasters and emergencies. One thing has not changed: our nation's need for a strong and effective Federal agency to guide response and recovery efforts in the wake of a disaster. The nation today faces the same, if not greater, threat from fires, floods, tornadoes, derechos, hurricanes and other natural disasters as before 9/11.

This fact is evidenced by the significant portion of funding expended on disaster relief. Since 1999, Congress has appropriated $92.28 billion for the Disaster Relief Fund in response to disasters and emergencies declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).

When flood insurance and other private insurance claims are factored in, we have spent nearly $290 billion, an average of almost $30 billion per year, in response to natural disasters. These amounts do not include funds spent in connection with the September 11, 2001, terrorist attacks and do not count costs incurred by States, local governments, and individuals not reimbursed by FEMA.

Since 2003, FEMA has failed the American people. Hurricane Katrina remains foremost in our minds. It is shameful that, to this day, many citizens and communities in Louisiana have still not recovered from the disaster. More recently, residents in Texas experienced significant shortcomings in the delivery of recovery assistance, including debris removal and housing, in the aftermath of Hurricane Ike.

Oversight by this Committee has shown a clear correlation between the absorption of FEMA into DHS and the deterioration of FEMA's effectiveness. I believe there are several reasons for this trend, including:

- ***FEMA's mission has been distorted by a focus on terrorism.***
  - Key federal grant programs, that previously helped build basic emergency management and fire fighting capability in communities around the country, are now made available only if applicants can show a nexus to terrorism.

- In the last six years, the Federal Government has spent ten times more on terrorism preparedness (nearly $15 billion) than on core emergency management preparedness ($1.5 billion). Yet since 2000, the President has declared only two disasters because of terrorist attacks, but declared over 500 disasters due to natural hazards.

➢ ***FEMA does not have ultimate decision-making authority under DHS.***

- Within DHS, FEMA officials have had to run all decisions through the Secretary of Homeland Security. FEMA has also had to work through the Secretary to access non-FEMA Federal resources in a response effort.
- These additional layers, which did not exist when FEMA was an independent agency, cause delays, impact the speed and flexibility of services that are provided to citizens and communities, and add unnecessary obstacles following a disaster.

➢ ***DHS has centralized disaster response and recovery capabilities at the Federal level.*** This has shut out FEMA's partnerships with State and local governments, and undermined the emergency management system.

- ***DHS has duplicated functions under the direct control of the Secretary that by law are the responsibility of FEMA.*** For example, DHS pre-designated individuals to serve as Principal Federal Officials (PFOs) for disasters during the 2008 Hurricane season, notwithstanding a prohibition against such appointments in Stafford Act disasters and emergencies in the FY 2008 and FY 2009 DHS Appropriations Acts. I am troubled that the FY 2010 DHS budget proposal calls for an elimination of this prohibition.

For these reasons, I have long opposed the incorporation of FEMA into DHS. During House consideration of the Homeland Security Act of 2002, I said:

> This is July 2002. Let us fast forward to July 2003. The majority has prevailed. FEMA is a box in the mammoth bureaucracy of the Department of Homeland Security. Flood waters are swirling around your city. You call for help. You get the Department of Homeland Security. The switchboard sends your call to the Under Secretary's office which looks up "disaster" on their organizational chart and sends you to the Congressional Liaison Office, which then promises to get a message back to you in 24 hours. Eventually, they find FEMA, by which time you are stranded on the roof of your house waving a white handkerchief and screaming for help. FEMA, the word comes back, sorry, is looking for suspected terrorists some place and will get back to you as soon as we can.

Unfortunately, we have seen these predictions come true. Unless FEMA is re-established as an independent, cabinet-level agency, I expect this history to repeat itself.

After Hurricanes Katrina and Rita, Congress enacted changes to try to fix the problems plaguing FEMA by enhancing the agency's authority within the Department of Homeland Security. Unfortunately, these changes have done little to restore the type of robust emergency management agency that is needed at the Federal level.

On February 25, 2009, I, along with the bi-partisan leadership of this Committee, introduced H.R. 1174, the "FEMA Independence Act of 2009". The legislation currently has 29 co-sponsors. This legislation re-establishes the FEMA as an independent, cabinet-level agency reporting directly to the President. An independent FEMA would have responsibility for core emergency management programs and functions currently administered by the agency.

Secretary Napolitano announced yesterday that the Administration does not have any current plans to remove FEMA from DHS. The President has many competing priorities and demands on his time in the early days of his Administration, and, as such, I am not surprised to learn that he is not prepared to support a reorganization at this time. Restructuring a major government entity takes time and must be carefully executed and well thought through. I believe this work is well worth the effort, and will continue to build the case of the benefits to our nation's emergency management system of reinstating FEMA as an independent agency.

We will hear from witnesses today who have extensive knowledge and experience in emergency management and understand the structural and other impediments FEMA faces inside DHS. I welcome each of you and look forward to your testimony.

Statement of the Honorable Bill Shuster
Transportation and Infrastructure Committee Hearing
May 14, 2009

Thank Oberstar and Mica.

(Welcome witnesses, particularly General Honore [honor-ray].)

I believe the last time General Honore and I met was during a hearing of the Katrina Investigation Committee that I served on after the hurricane.

We spent 6 months investigating every aspect of the disaster and I believe our report was the hardest hitting of all the Katrina investigations. Chairman Tom Davis promised to follow the facts wherever they led, and our report, "A Failure of Initiative" delivered on his promise.

I know my time is limited, so I want to make one key point that helps explain why 9 out of 13 members of the Select Katrina Committee ended up endorsing FEMA independence.

Since the Katrina Committee was tasked to make findings of fact only – and not recommendations – the members never discussed how to fix the system.

At the press conference where Chairman Davis released the report, one of the first questions was whether or not FEMA should be restored as an independent agency.

Chairman Davis explained how the question was never discussed and the committee didn't make recommendations. He then turned to me and said, "Chairman Shuster should respond to the question

because his committee has primary jurisdiction over FEMA."

Not knowing what any of the other Members thought about the issue I was a little hesitant to respond.

I went up to the podium and said I came to the conclusion Secretary Chertoff was the right person to lead the department and stop the next terrorist attack, but he was the wrong person to manage our nation's disaster response.

I said we have created a system where FEMA is buried in a terrorism prevention department where it can't do its job, and the secretary – who has the authority to manage disasters – will never be qualified to do so.

The President will select a Secretary of Homeland Security based on the person's qualifications to lead a large law enforcement department and prevent the next terrorist attack, not because the person is a qualified emergency management professional.

I said the best solution was to make FEMA an independent, cabinet level agency where it would have the power to coordinate federal agencies on behalf of the President, and let DHS focus all its efforts on terrorism prevention like Congress intended.

Chairman Davis and the other members walked up to the microphone and endorsed FEMA independence because they came to a similar conclusion as I had.

At this point I would like to read one of the key findings from the Katrina report, which helps explain why we concluded FEMA should report directly to the President.

"With the creation of the Department of Homeland Security and the development of the National Response Plan, an additional layer of management and response authority was placed between the President and FEMA…As part of these changes, critical response decision points were assigned to the Secretary of Homeland Security. The Secretary executed these responsibilities late, ineffectively, or not at all."

Mr. Chairman, the last point I want to make is that the reforms we made in the Post-Katrina Reform Act to address this problem have never been implemented.

The presidential directives putting the Secretary in charge of disaster response and relegating the FEMA Administrator to the bowels of the bureaucracy are still in place.

One of the most important problems has never been fixed.

Testimony of Larry Gispert

Immediate Past President

International Association of Emergency Managers (USA)

Before the

Committee on Transportation and Infrastructure

U.S. House of Representatives

"An Independent FEMA: Restoring the Nation's Capabilities for Effective Emergency Management and Disaster Response"

Thursday, May 14, 2009

I am Larry Gispert, the Director of Emergency Management for Hillsborough County Florida. Hillsborough County is on the West Coast of Florida and has the City of Tampa as its county seat. The county's population is approximately 1.2 million. I am the immediate past President of the International Association of Emergency Managers (IAEM) and am testifying on behalf of the USA Council of IAEM (IAEM-USA). I have 28 years experience in emergency management with 15 as the Hillsborough County Director and have also served as President of the Florida Emergency Preparedness Association.

IAEM-USA is our nation's largest association of Emergency Management professionals, with more than 4,000 members including emergency managers at the state and local government levels, tribal nations, the military, colleges and universities, private business and the nonprofit sector. Most of our members are city and county emergency managers who perform the crucial function of coordinating and integrating the efforts at the local level to prepare for, mitigate the effects of, respond to, and recover from all types of disasters including terrorist attacks. Our membership includes emergency managers from large urban areas as well as rural areas.

Statement of Larry Gispert, Hillsborough County Emergency Management, 2711 East Hanna Avenue, Tampa, Florida. 33610. Phone 813 276 2364. Representing International Association of Emergency Managers

An Independent FEMA

The subject of this hearing is an important one and deserves a deliberate policy discussion on the substance. The beginning of a new administration is a time of opportunity for serious review and we appreciate the leadership of this committee.

I would like to clearly deliver the message to you today that IAEM-USA supports the Federal Emergency Management Agency (FEMA) being returned to its former status as an independent agency reporting to the President with a Director designated as a member of the President's cabinet. This position was unanimously endorsed by the IAEM-USA Board of Directors, and received a standing ovation when announced to our membership gathered at our annual meeting in Kansas City in 2008. IAEM did not take this step lightly or simply out of nostalgia for what "used to be" but because after a number of years within DHS it is obvious to us, as FEMA's primary customers, that remaining within this huge, fragmented bureaucracy will never achieve the level of competence or responsiveness that FEMA had when it was independent and also well led. IAEM is a professional, non-partisan organization whose only interest is in improving disaster management and restoring a truly effective national emergency management system. The people applauding this announcement of support for independence represent the folks who work with FEMA on a daily basis in all phases of emergency management – mitigation, preparedness, response and recovery. Emergency Managers are an extension of the national system of emergency management which FEMA is supposed to support.

A successful FEMA is an independent one that works closely with all stakeholders, and even closer with key stakeholders. As key stakeholders, State and local emergency managers are thoroughly involved with FEMA and disaster coordination before during and after the initial response phase. This involvement continues for the long months – and sometimes years – it takes to recover from a major disaster or emergency.

At the heart of our concern about the "shotgun marriage" between FEMA and the Department of Homeland Security (DHS) is the fundamental difference in their missions. The mission of the DHS is clearly to prevent the next terrorist attack on the United States of America, and to secure its borders. The mission of FEMA is clearly to prepare for, respond to, recover from, and mitigate the impact of all disasters, regardless of their cause. The mission of DHS is **vital** and we do not think DHS should be distracted by the mission of FEMA. At the National Emergency Management Association (NEMA) annual meeting in Portland, Oregon on September 10, 2008, Robert M. (Mike) Walker, former FEMA Deputy Director, observed that the current situation at the DHS, "...is like requiring the Department of Defense to do both war-fighting and diplomacy." Walker goes on to suggest that the missions of the Department of Defense and the Department of State could never be combined – and neither should consequence (dealing with the impacts) and crisis management (dealing with the perpetrators of the illegal act).

In addition to the fundamental and proper difference in missions, the organizational cultures of FEMA and DHS are drastically different. Earlier, we described a successful FEMA as working with stakeholders. A truly effective national system of emergency management must be based on two very solid principles: it must be comprehensive including all hazards, all players and all phases of disaster and it must be collaborative -- building true trust and partnerships at and among all sectors and levels of government. This organizational culture requires consensus building from the ground up. The DHS culture operates in a top down manner. This culture clash and the DHS lack of understanding of state and local methods frequently causes an immediate disconnect between the DHS and their state and local partners in the planning for, response to and recovery from and mitigation of the effects of all disasters.

Addressing Objections to FEMA Independence

Some, who believe that FEMA should stay within DHS, have advanced a number of reasons this should be the case. To date, those reasons have remained mostly unaddressed. IAEM-USA would like to take this opportunity to suggest some of the thoughtful and reasoned dialogue we believe should be engaged in when considering restoring FEMA to its former independent status.

One of the most frequent suggestions we hear is that another re-organization would cause disruption at FEMA. Mr. Chairman, you recognized the implications of burying FEMA in a large department with a different mission from the beginning and you were correct. It is time to take a long term view of what is the best structure for success of both missions and correct it, not the short term view of avoiding a needed reorganization process. Even if there is short term inconvenience, the risk to the country of having FEMA not function is of greater concern. A successful disaster response is dependent on rapid decision-making and flexible, decentralized ability to take action. DHS's culture, bureaucratic processes, and size are unsuited to this kind of activity. What we need is a more nimble agency which can act fast and change course without a lot of approval seeking. There are times, when after years of effort, that an amicable divorce is the best option – and we believe that is the case for this shotgun marriage.

Another of the suggestions from those believing it is necessary to keep FEMA within DHS is the benefit of using DHS resources. In response to that, IAEM-USA would simply point out that the Stafford Act gives the President the authority which is delegated to FEMA to mission task any appropriate federal asset, regardless of its location. For example, FEMA currently utilizes Department of Defense assets – and those assets are not located within the DHS. This delegated authority remains intact regardless of the location of FEMA, or regardless of the location of the necessary asset. This means, essentially, that FEMA has the same clout in tasking federal resources whether or not it is within DHS. Furthermore, FEMA should be able to request the most effective and appropriate assets for the mission and not just be focused on those in DHS.

By the same token, some suggest that if FEMA were removed from DHS, it would be necessary for DHS to develop a similar consequence management capability to replace it. This ignores or

rejects the concept of consequence management as being what FEMA does. Based on the fact that this is the mission of FEMA, there is no reason why DHS would have to re-create another consequence management organ. DHS would simply call upon FEMA to provide those things they have always provided when the disaster is terroristic in origin—as they did in 1995 in Oklahoma City and in 1993 and 2001 in New York City. To extend this line of thought further – does it make sense that if the U.S. Coast Guard were being removed from DHS, that capability would have to be re-created elsewhere within the Department?

Others have suggested that the structure of FEMA being within DHS doesn't matter. Leadership is vital but structure is also important for success. We would strongly suggest that structure does matter because of the significant structural impediments created by the subordination of FEMA to DHS. Some of these include:

- Not accepting the congressionally mandated role of the Administrator of FEMA as "providing the Federal Leadership necessary to prepare for, protect against, respond to, recover from or mitigate against a natural disaster, act of terrorism and other man-made disaster – including...managing such response." (P.L. 109-295).

- The continued insistence by DHS on a Principal Federal Official (PFO) leads to confusion over the chain of command in disasters. This confusion perpetuates the potential for failures in future disaster responses. Recognizing this, Congress included a General Provision in the FY 2009 DHS Appropriations Act which prohibited funding for any position designated as a Principal Federal Official for Stafford Act declared disasters or emergencies. However, the FY 2010 Budget Request deletes General Provision 526 and includes the explanation, "This provision restricts the Secretary's ability to manage disaster response."

- The Office of Operations Coordination was created shortly after the enactment of PKEMRA and it was assigned several responsibilities that PKEMRA assigned to FEMA notwithstanding PKEMRA's prohibition on transferring functions, responsibilities, etc. outside of FEMA. These include, but are not limited to:

    - Coordinating activities related to incident management
    - The national planning scenarios
    - The Integrated Planning System
    - Duplicating the role of the Office of Disaster Operations in FEMA.

- Budget is important. Through budget requests one sets priorities and obtains financial and personnel resources to achieve those priorities. FEMA does not have the authority to submit its budget request and justification directly to OMB for consideration—it must go through DHS before going to the Office of Management and Budget.

- Regulations are an important technical tool to implement policy and legislation. For 25 years FEMA had direct regulatory authority. The additional layers of DHS review make it difficult for FEMA to have regulations promulgated. Our perception is that there is now a lengthy process after FEMA completes its work and sends draft regulations through the layers at DHS, layers where FEMA regulations are not a top priority and they do not have detailed knowledge of the FEMA programs.

- Having control of the President's Stafford Disaster Relief Fund is important. FEMA served as a "piggy bank" for DHS in the last administration. Congress should make certain that this does not happen again.

Post Katrina Emergency Management Reform Act (P.L. 109-295)

After the failures of Katrina, Congress passed the Post Katrina Emergency Management Reform Act to give FEMA the clear authority and tools to do its job and put a fence around it to give it the protection for its mission and resources within the Department. Some contend that the passage of the Act has resolved the mission competition within the Department.

However, key provisions of the Post Katrina Reform Act have not been implemented; the law is being ignored. Homeland Security Presidential Decision Directives 5 and 8 have not been revised to coincide with the law. We have always thought that Public Law trumps Presidential Directives.

Some specific examples from the Act which we believe are not being followed include:

- Sec. 611(12) of Post Katrina which amends Sec. 504 of the Homeland Security Act (HAS) struck and replaced the "Secretary" of Homeland Security with the "Administrator" of FEMA in order to explicitly transfer the statutory responsibility for leading and managing all aspects of disasters to the Administrator of FEMA [Specifically, this amended the Homeland Security Act of 2002 by "striking the matter preceding paragraph (1)" which contained the language, "the Secretary acting through…" and inserted instead the following language. "In General – The Administrator shall provide Federal Leadership necessary to prepare for, protect against, respond to, recover from or mitigate against a natural disaster, act of terrorism and other man-made disaster – including…managing such response.]

- Section 503 Federal Emergency Management Agency
    - (b)(2)Specific Activities – In support of the primary mission of the Agency, the Administrator –
    - (A) lead the Nation's efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic accidents.

- (H) develop and coordinate the implementation of a risk-based, all hazards strategy for preparedness that builds on those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation

- Section 503 (c)(4)(A) In General – The Administrator is the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States.

- Sec. 503 (c) (5) Cabinet Status –
  - (A) In General – The President may designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters.
  - (B) Retention of Authority – Nothing in the paragraph shall be construed as affecting the authority of the Secretary under this Act.

We believe that DHS frequently and mistakenly quotes Section 502(c)(5)(B) regarding the authority of the Secretary and the Administrator as being applicable across the entire act when, in fact, it is limited in scope only to paragraph (5). We strongly request the committee to provide continual oversight of DHS on these matters to ensure they are following the clear and direct law on these issues.

Congress also rejected the DHS Stage 2 Reorganization and clearly and unambiguously moved all Preparedness functions and personnel to FEMA. IAEM believes that Section 506 (c) (1) and (2) of the Homeland Security Act as amended by the Post Katrina Reform Act clearly prohibits the transfer of any asset, function or mission from FEMA without a specific Act of Congress. A major function of FEMA is to rebuild relationships with State and local officials. Therefore, the Intergovernmental Affairs function assumes a much higher level of importance. Despite the clear prohibition on moving this function from FEMA, we understand there are still 11 positions performing this vital role still under the National Protection and Programs Directorate (outside of FEMA) on a non-reimbursable detail. These positions and funding should be immediately transferred to FEMA for intergovernmental. However, the President's FY 2010 Budget request for DHS includes a provision to move 17 positions and $2,000,000 from FEMA to fund the DHS Intergovernmental Programs Office.

PKEMRA clearly and unambiguously placed FEMA in charge of preparedness and management of the federal response to a disaster or emergency. The role, therefore, of the Office of Operations Coordination would appear to be in violation of this provision. One of the controversies originating from this office is an internal discussion within DHS regarding perceived differences between Incident Management and Emergency Management. IAEM-USA

believes we can help put the discussion of these terms to rest. Emergency Management is the broader, overarching and systematic approach to the issue of dealing with all disasters and emergencies, whether natural, technological, or homeland security. Incident management, while important, is a much more narrowly focused sub-element of response, one of the four phases of emergency management (mitigation, preparedness, response and recovery). To insist otherwise is to ignore the evidence of reality – and, a tacit acknowledgement on the part of DHS that they fail to understand the broader implications of the overall emergency management system.

DHS and FEMA Leadership

I would like to point out that we have great respect for Secretary Napolitano and are pleased that the President selected a governor. We sent a strong letter of support. We also applaud the selection of Craig Fugate to be the Administrator of FEMA. Craig is a former local emergency management director and is highly respected in the emergency management community for the program he has run in Florida and for his innovative approach. In addition we strongly support Tim Manning, the Director of Homeland Security and Emergency Management of New Mexico, who has been confirmed as Deputy Administrator of FEMA for National Preparedness.

We commend the President for selecting professional emergency managers who are strong leaders with proven track records and we look forward to working with the new leadership team at FEMA.

We have said that we are pleased with the confirmation of Secretary Napolitano and (nominated) Administrator of FEMA Fugate. In particular, we are pleased with their competence and ability to lead. We believe that their chances for success will be greatly increased if they are independently allowed to pursue the separate missions of their respective agency and Department.

Conclusion

In conclusion, we recognize that removing FEMA from DHS will need to be done carefully. All the functions of the emergency management cycle (mitigation, preparedness, response, and recovery) must remain intact within FEMA. The differences in the mission and cultures between FEMA and DHS are not compatible. We now have a DHS Secretary with better understanding and who may place more trust in FEMA. However, that was not the case in the last Administration and may not be true in the future. We should fix the structure. In order to give the country the emergency management system that our citizens demand and deserve, FEMA should be returned to its independent status as a standalone agency reporting directly to the President with a Director designated as a member of the President's cabinet. We understand this will be a joint decision of the President and the Congress.

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November 18, 2009

The Honorable James Oberstar
Chairman
Committee on Transportation and
Infrastructure
U.S. House of Representatives
Washington, D. C. 20515

The Honorable John Mica
Ranking Member
Committee on Transportation and
Infrastructure
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Oberstar and Ranking Member Mica:

I appreciated the opportunity to testify on behalf of the International Association of Emergency Managers before your Committee on May 14 on the topic of an Independent FEMA: Restoring the Nation's Capabilities for Effective Emergency Management and Disaster Response.

I was sent two questions for the record. Those questions and my responses follow:

1. Question: On page 5 of your testimony, you state that in the last Administration FEMA served as the piggy bank for DHS. Can you elaborate?

Do you have specific dollar examples, or amounts?

Answer: In the last Administration resources –both personnel and funds—were taken from FEMA for other priorities within the Department. I have attached documents outlining reductions to FEMA in FY 2003-2005.

2. Question: Do you believe access to the large amounts of funding FEMA disburses through the Disaster Relief Fund is a motivating factor for DHS to want to retain FEMA?

Answer: I can not comment on the motivating factor; however, the authorities of the Stafford Act and the funding available from the President's Disaster Relief Fund are certainly very attractive and extremely important.

3. Question: In your testimony you discuss that DHS seems not to understand the difference between incident management and emergency management. Can you elaborate and explain what these terms mean? Why do you think DHS takes this view? What are the significance of this and the consequences of this?

Answer: Emergency management is widely held to be a broad, overarching and systematic approach to the issue of dealing with all disasters and emergencies, whether natural, technological, or homeland security (See, for example, Waugh 2007, 14-17; Mileti 1999, 215; Haddow and Bullock 2006, 1). Comprehensive emergency management includes four phases – mitigation, preparedness, response, and recovery (National Governor's Association 1978).

Incident management, while important, is a much more narrowly focused sub-element of response – one of the four phases of emergency management. Previous attempts by DHS to separate the preparedness phases from mitigation, response, and recovery were unsuccessful – and ultimately resulted in Congress reuniting it with the rest of the emergency management process through the Post-Katrina Emergency Management Act of 2006 (PKEMRA).

However, after the enactment of PKEMRA it appears the Department of Homeland Security (DHS) engaged in a semantic maneuver – by redefining emergency management to exclude incident management – in order to justify the department's transfer or duplication of this essential emergency management function from the Federal Emergency Management Agency (FEMA) to the Office of Operations Coordination (created after passage of PKEMRA). Presumably this redefinition of terms was done to sidestep the legislative prohibition in the PKEMRA on transferring or duplicating essential emergency management functions outside of FEMA.

The Office of Operations Coordination was assigned responsibilities the Congress intended to be in FEMA such as coordinating activities related to incident management, the Integrated Planning System, the national planning scenarios, and other functions that duplicated the role of the Office of Disaster Operations in FEMA. In addition, the department assigned the Principal Federal Official teams to the office, which would enable the Secretary to coordinate federal response efforts outside of the FEMA chain of command.

The practical consequences of such a duplication of functions and responsibilities (including the deployment of a Principal Federal Official) are well documented and consist of a confused chain of command, duplication of effort, and delayed federal response efforts in the field. The final report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina includes a detailed discussion of practical consequences of duplicating federal coordinating structures during complex disasters.

Two specific examples of this from the report are as follows:
"...delayed and duplicative efforts to plan for and carry out post landfall evacuations at the Superdome; [and] uncoordinated search and rescue efforts that resulted in residents being left for days without food and water" (U.S. House 2006, 144, 183, 189).

IAEM-USA strongly believes Congress made the right decision to vest the authority, responsibility, function, and capability for coordinating the federal response to disasters within FEMA. During a disaster, state and local officials need to know the federal government will send one person to the disaster area who has the authority, qualifications, and capability to coordinate the federal response in support of the state. IAEM-USA remains firmly resolved that all four phases of the emergency management cycle must remain intact within FEMA.

Reference List for Response to Question 3

Haddow, George D., Jane A. Bullock. 2006. *Introduction to Emergency Management*, 2nd Ed. New York: Elsevier.

Mileti, Dennis S. 1999. *Disasters by Design: A Reassessment of Natural Hazards in the United States.* Washington, DC: Joseph Henry Press.

National Governor's Association. 1978. *Emergency Preparedness Project: Final Report.* Washington, DC: NGA
U.S. House. 2006. Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina. *Final Report: A Failure of Initiative.* Washington, DC: U.S. Government Printing Office.

Waugh, William L. 2007.Local emergency management in the post-9/11 world. In *Emergency Management: Principles and Practice for Local Government,* 2nd Ed, edited by William L. Waugh and Kathleen Tierney, 4-23. Washington, DC: ICMA Press.

Again, thank you for the opportunity. If I can provide any additional information, please let me know.

Sincerely,

Larry J. Gispert

Larry Gispert
Past President

Testimony of Jerome M. Hauer
Before the House Subcommittee on Transportation and Infrastructure

An Independent FEMA:A Step Towards rebuilding Federal Emergency Management Capabilities

Mr. Chairman and members of the committee thank you for the invitation to testify before you today. I am here to discuss your proposed legislation to make FEMA an independent agency once again and remove it from the Department of homeland Security. My comments will be brief.

As you can see from my Biography, I have worked in Emergency Management and public Safety at the Federal, State and local level under two Mayors, seven years under Senator, then Governor Evan Bayh and a President. I also ran Emergency Response programs for IBM worldwide. I've seen FEMA in it's Heyday and at it's worst. My concern today is that as you move forward with this legislation, which I fully support, that you don't cripple it once again.

While I am in complete agreement with you that the agency needs to be freestanding I would urge you to ensue that if this were to occur that a transition group be put in place to give FEMA the support it needs to allow it to do it's job during this transition. Or it will fail should disaster strike.

I am also concerned about your desire to split the terrorism response coordination function out of FEMA. Emergency Management is Emergency Management no matter what the issue is. When we do get hit by another terrorist attack on our soil we need to have one agency not two coordinating the Federal Response. Let the Department of Homeland Security perform it's mission of securing our borders, our transportation systems and our infrastructure. Let them give out UASI grants but let FEMA coordinate the Emergency Management Program Grants, The structure you are proposing will lead to confusion and agency infighting.
We will return to the days when FEMA walked away from the mission of terrorism preparedness and response.

I remember getting a call from Attorney General Janet Reno asking if I could help her in trying to convince the FEMA Director to play in the first

TOPOFF exercise. FEMA had decided they did not want to be involved in the exercise.

My point is that there needs to be one coordinating agency reporting to the president that handles works with all Federal agencies to manage any type of disaster be it man-made or natural.

The second thing that you need to do is to give the new Administrator the ability to get rid of the political hacks that burrowed in at FEMA. Assuming Craig Fugate is confirmed, he will need a strong team around him and not be saddled with people who are now SES and feel immune from repercussions to undermine a new Administrator.
I said I would be brief and I have been.

Thank you again for inviting me here today.

- FEMA is too important to the working poor people of this country to be hidden inside DHS, DHS is focus on protecting this country , FEMA is focused on helping our people, before during and after disasters, natural and manmade.

- Imagine FEMA as the great big St. Bernard dog prepared to save life in a room debating on budget to help the people, and he is debating with the German Sheppard and a Pit Bull who are there to protect the people from terror, drugs and illegal folks trying to get into our country. Well guess what...the St. Bernard loses every time. As example, the USG has spent ten times more money on counter terror then we have on preparedness since 9/11, yet for every dollar we spend on preparedness we can save nine dollars in response to natural disasters, some may say (the Red Cross) its one to six in savings but I believe it's more like one to nine

- FEMA need to be Cabinet level, it takes up to 5 years to complete most recovery operations from a hurricane or flooding. FEMA needs to be able to look the other Cabinet level agency eye to eye versus having to work through DHS. This is not about POTUS access, it's about the power to deal with other principles in the USG directly, i.e. DOD right now has to get approval from DHS for DOD support, this adds an unneeded layer to respond to save lives.

- We need a national Preparedness plan and we need it now. DHS National Response Format is focused on responding. FEMA needs to be more focused on a balance between Preparedness, Response, and Recovery but what DHS is focused on Response, and it shows in the budget.

- Grants, all of FEMA objectives for Grants go through and compete with DHS which is focused on counter terror and border protection, well guess, what c-t and protection stuff is, is not the technology FEMA needs.

- We don't need to rush to take FEMA out of DHS. This can be done over the next budget year, as FEMA lost a lot of talent when it was merged with DHS, but this should be done and the Congress need to make this happen.

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TESTIMONY

Association of State Floodplain Managers, Inc.

before the
House Committee on Transportation and Infrastructure

An Independent FEMA: Restoring the Nation's Capabilities for Effective Emergency Management and Disaster Response

Presented By:
Larry Larson, P.E., CFM
ASFPM Executive Director

May 14, 2009

INTRODUCTION

Since the *Homeland Security Act of* 2002 created the Department of Homeland Security (DHS), the Association of State Floodplain Managers (ASFPM) has been concerned with the inclusion of the Federal Emergency Management Agency (FEMA) in DHS. We were one of the first stakeholder organizations to be publically on record opposing the inclusion of FEMA into DHS, and we continue to advocate restoring FEMA to an independent agency. We have watched the efforts to integrate FEMA into DHS over these past years and we are more convinced now than ever that FEMA cannot exert dynamic, robust leadership in improving our nation's disaster policies and programs unless it can independently formulate and implement its own policies and practices. We applaud this Committee's thoughtful attention to improving FEMA's effectiveness and support the legislation you, Mr. Chairman and Ranking Member Mica, have introduced along with others, to accomplish this -- H.R. 1174. We appreciate the opportunity to discuss our views with you.

ASFPM and its 27 Chapters represent over 14,000 state and local officials and other professionals who are engaged in all aspects of managing and mitigating flood risk, to address the loss of life and property from natural hazards. These aspects include land management, mapping, engineering, planning, building codes and permits, community development, hydrology, forecasting, emergency response, water resources and insurance. Most of our members work with the nation's 21,000 flood prone communities struggling to reduce their losses from all flood related hazards. All ASFPM members are concerned with working to reduce our nation's flood-related losses. Our state and local officials are the federal government's partners in implementing FEMA programs and working to achieve effectiveness in meeting our shared objectives. For more information about the Association, please visit http://www.floods.org.

While the official record is well documented regarding the debate as to FEMA's historic mission, its current mission within DHS, and its status as an independent agency, two undisputable facts loom large: 1) FEMA's mission is to prepare for, respond to, recover from and mitigate against all hazards, and 2) During the response to and recovery from the two largest terrorist attacks on United States soil, an independent FEMA was successful in fulfilling its

responsibilities. The resurfacing of the debate today is about mission, priorities, and what organizational structure will ultimately lead to the most effective all hazards emergency management regime for the nation. Our testimony addresses the following:

A. FEMA Past and FEMA Present
B. Missions of DHS and FEMA
C. Legal Authorities
D. Policy Priorities
E. A 21st Century Framework for Hazards Management and Risk Reduction

A. FEMA PAST AND FEMA PRESENT

From being roundly criticized in the aftermath of Hurricane Andrew, to being widely praised in the 1990s, then being criticized again after Katrina, to doing a respectable job in the aftermath of the 2008 Midwest floods, FEMA's reputation rises and falls with its performance and its ability to perform within its institutional construct and constraints. This will continue to be the case.

What then, are the factors that allow FEMA to perform effectively? Certainly one factor is leadership. In fact, this was discussed in great depth last month during a hearing before the House Committee on Homeland Security where those testifying commented extensively on the leadership exhibited by FEMA's past director James Lee Witt. While we continue to applaud Witt's leadership, we do not concur with the conclusions drawn by those testifying who tended to attribute all of FEMA's success to his leadership when, in fact, two other factors were important: organizational structure and the ability to be nimble and fast acting.

A 2002 Congressional Research Service (CRS) Report discussed how Director Witt's "renewal of FEMA" refocused and recommitted the organization to improve significantly the protection of citizens from all natural and manmade hazards.[1] Indeed, Director Witt endeavored to create a national emergency management system that was both risk-based and all-hazards in its approach. Witt reorganized FEMA and eliminated the National Preparedness Directorate, which at the time, was entirely focused on national security emergencies, and instead created functional

[1] Congressional Research Service, *Proposed Transfer of FEMA to the Department of Homeland Security*, CRS-RL31510 (Washington: 2002), p.14.

directorates that aligned with the major phases of emergency management. This was important because it operationalized the view that FEMA's disaster preparedness, response, recovery, and mitigation mission was largely similar whether the hazard be natural or manmade.

Similarly, the independence of FEMA in the 1990s led to its effectiveness when it came to policy implementation and quick decision making in collaboration with its state and local partners that is critical in the aftermath of a disaster. In an analysis of FEMA policies during the 1990s viewed through the lens of hazard mitigation, a conclusion can be reached that the policies were designed for making sure the programs of FEMA were able to be implemented at the local and state levels and reflected a spirit of "how to make these programs work." While Director Witt's leadership in, and commitment to successful implementation was important, equally or more important was the fact that there was no bureaucratic overhead of a parent agency that required each and every policy, procedure, etc. to be reviewed and adjusted to reflect the culture of the larger department. Such is not the case today.

- **The combination of Mr. Witt's leadership, the reorganization of FEMA in the 1990s, and the resulting operational agility was successfully tested. In the decade leading up to 2002, the U.S. experienced the two most serious terrorist attacks on US soil, as well as the Great Midwest Floods of 1993. Through these tests of its abilities to fulfill its mission, FEMA demonstrated excellent capability and capacity, proving that an effective framework for all hazards emergency management existed.**

Presently, FEMA is certainly performing better than it did under its former leadership in the early 2000's. Immediate past Director Paulison was a capable leader who benefited from the policy adjustments made possible by the *Post Katrina Emergency Management Reform Act of 2006 (PKEMRA).* Between 2002 and 2006, FEMA lost both its independence and all-hazards focus. Instead, pieces of FEMA were transferred out of the agency, an office of National Preparedness focusing on national security was re-established, and operational stovepipes replaced the previously integrated organizational and policy framework. Coordination with Congress was curtailed, and all policies, rules, and procedures were significantly delayed from being released or were not developed. Congress tried to address the most grievous issues in PKEMRA.

Unfortunately, the Congressional vision and attempt to correct problems has not resulted in improved internal DHS processes regarding FEMA's policies and programs. Now FEMA sits awkwardly within the larger DHS, as a somewhat "fenced-in" agency as first suggested by Senator Jeffords in 2002.

B. MISSIONS AND CULTURE OF DHS AND FEMA

One of the basic organizational incompatibilities that currently exist is the conflict between the mission of the parent agency – DHS, and its subordinate – FEMA. In July 2002, President Bush issued the *National Strategy for Homeland Security*. The strategy set forth overall objectives to prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize the damage and assist in the recovery from attacks that occur. Then, in November 2002, the *Homeland Security Act of 2002* was enacted into law, creating DHS. This act defined the department's missions to include preventing terrorist attacks within the United States; reducing U.S. vulnerability to terrorism; and minimizing the damages, and assisting in the recovery from, attacks that occur within the United States. While a defined mission did emerge for emergency preparedness and response – one component that was completely missing was that of hazard mitigation, and the recovery mission was given only token acknowledgement.

The key mission that DHS has is one of *Terrorism Prevention*. Unfortunately, there is body of thought within DHS that prevention is somehow equivalent to hazard mitigation. This is not true: the two functions are not equivalent, nor should they be. Terrorism prevention is inherently a law enforcement / intelligence gathering function aimed at stopping an event before it occurs, while hazard mitigation includes a variety of community based measures to reduce future risk of bodily harm and property damage from a future hazard event that will occur.

By contrast, FEMA's mission is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. FEMA's mission had and continues to embrace an approach of comprehensive emergency management and an approach that is all hazards.

While it is unreasonable to expect that a parent agency would have a mission that encompasses all of the different mission components of the subordinate agency, given the

specificity of the DHS mission, it is also unreasonable to believe that the subordinate agency programs that are considered legacy programs and outside of the mission of the parent agency would receive priority or focus. In implementation, this has indeed been the case. In the most recent version of the Department of Homeland Security's strategic plan[2] its mission is stated as:

> *DHS Mission--We will lead the unified national effort to secure America. We will prevent and deter terrorist attacks and protect against and respond to threats and hazards to the Nation. We will secure our national borders while welcoming lawful immigrants, visitors, and trade.*

The DHS strategic plan goes further to define five strategic goals. It is very clear from this new strategic plan that the primary mission is terrorism prevention followed by only part of the comprehensive emergency management mission - preparedness and response – as being partially discussed in one of the strategic goals. While politically astute observers would say that these two functions may be the most critical in terms of judging elected officials and their performance after disaster event, the total lack of recognition of the elements of recovery and mitigation reflects a very narrow view of emergency management in DHS and the department's priorities.

The culture and tone of the DHS is by necessity closed and secretive. It does not share information with the public or others by the very nature of its central mission—terrorism prevention. On the other hand, FEMA, in dealing with all phases of natural hazards -- preparedness, response, recovery and mitigation -- must be open in order to be effective. Therefore, the Agency must share as much information as possible with its state and local partners, as well as the public, in order to build awareness and stimulate action to reduce the impacts and consequences of hazards and resulting disasters.

Contrasts also exist between how the different missions of DHS and FEMA are evaluated, scored, and prioritized within the national policy arena. FEMA is scored on how well it helps state and local governments and the citizens they serve prepare for and manage a natural hazard, respond to and recover from disasters, and perform effective mitigation to reduce the impacts of future disasters. In contrast, DHS is scored on whether it effectively identifies terrorist threats and prevents attack. Once the attack happens, essentially, DHS has lost---thus it must focus on prevention, largely to the exclusion of the other phases and elements of emergency management.

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[2] Department of Homeland Security, *One Team, One Mission, Securing Our Homeland: U.S. Department of Homeland Security Strategic Plan Fiscal Years 2008-2013* (Washington: 2008).

That is not wrong; it's just the nature of its mission.

An agency within a large department must by necessity adapt to the tone and culture of the larger department. In this case, the DHS has directed and will continue to direct FEMA's priorities, funds and other resources, and to control FEMA's policy development and implementation. DHS insists on constraining communications by FEMA, when open communications are essential for FEMA to effectively fulfill its mission. Moreover, DHS through its starkly contrasted mission and policy priorities, will continue to struggle unsuccessfully to understand and support critically important FEMA efforts, such as identification and mapping of high risk natural hazard areas, and the crucial programs to mitigate (mostly by encouraging appropriate land use) the impacts of natural hazards like floods, wind, earthquakes and wildfires.

- **The incompatible missions of FEMA and DHS will continue to lead to different budget emphases and priorities for actions, contribute to turf battles, power struggles, and organizational tension and will hamper the nation's capacity to effectively manage both future natural disasters and terrorists attacks.**

C. LEGAL AUTHORITIES

The original *2002 Homeland Security Act* did several things that had a deleterious effect on the nation's ability to maintain a comprehensive emergency management system:

- Established a Directorate of Emergency Preparedness and Response – with a focus on those two aspects, with diminished focus on recovery and mitigation.
- Established an Office of Domestic Preparedness – which had unclear and overlapping preparedness functions of the EP&R Directorate.
- Established a separate Office for State and Local Government Coordination which led to confusion as to how the normal and ongoing coordination between FEMA and its state and local stakeholders would occur.
- Established the position of the Principal Federal Officer which had a conflicting and undefined role whereby the DHS Secretary would be the lead official in a domestic incident and in communications directly with the President.
- Did not "fence in" FEMA like the Coast Guard, subjecting FEMA to DHS's ability

to transfer functions, budget, priorities and staffing elsewhere.

From the standpoint of comprehensive emergency management, the original act was a complete disaster. ASFPM fully acknowledges and supports the fact that after 9/11 there was a need to have better preparedness and prevention efforts as they relate to terrorism; however, the 2002 act went far beyond this need.

PKEMRA recognized many of the shortcomings of the 2002 Homeland Security Act as well as incorporated lessons learned from Hurricane Katrina. It changed FEMA both structurally and operationally. It reestablished the direct advisory capacity of the FEMA Director to the President, maintained FEMA as a distinct entity within DHS exempting FEMA from the scope of the DHS Secretary's reorganizational authority, protected FEMA's mission, and moved back many functions that were transferred into DHS's Emergency Preparedness and Response Directorate. Improvements beyond fixing the problems caused by the 2002 act included the creation of a National Advisory Council on emergency management issues, and the requirements that FEMA leaders have background and experience in emergency management.

Although the 2002 Act had a severe negative impact on all hazards emergency management and while the PKEMRA attempted to fix some of the worst issues, it has been suggested that FEMA's inclusion in DHS somehow has resulted in better synergy and leveraging of agency resources. One of the arguments from those who want FEMA in DHS is that it must be there in order to call upon other agencies in a post disaster situation. FEMA had, and will continue to have, access to other agency resources under Title IV-Sections 402 and 403 of the Stafford Act. Hence the false reasoning that a stand-alone FEMA agency would result in the loss of resources and capabilities through Homeland Security such as search and rescue, communications, law enforcement, intelligence and infrastructure protection is not accurate. With a core function as a coordinating agency, with preexisting authority under the Stafford Act to do so, ASFPM believes that an independent FEMA would be fully effective at working with other Federal agencies or having access to other agency assets than they have now with DHS.

- **While PKEMRA helped fix some troublesome issues, problems still remain. Under the Robert T. Stafford Act, FEMA has the authority and mission to**

coordinate with other Federal agencies and to leverage other agency assets when needed – this will not change whether FEMA remains within or outside of DHS.

- **FEMA can operate effectively as an independent agency in times of disaster**

- **Many of the agencies FEMA most needs to coordinate with for its mitigation and recovery missions are not part of DHS -- Army Corps of Engineers, NOAA, HUD, SBA, USGS, EPA , Fish and Wildlife Service.**

D. POLICY PRIORITIES AND PROBLEMS

One of the best measures of priorities is to look at an organization's strategic plan. As mentioned previously in this testimony, the most recent version of the DHS strategic plan reflects the priorities of DHS and is reflective of the legislated mission of the department – and certainly does not include a goal of an integrated, well functioning national emergency management system. In a 2007 GAO report[3], progress was measured on the implementation of mission and management functions within DHS. Among the functional/programmatic areas, Emergency Preparedness and Response and Science and Technology were rated the lowest. Interestingly, the "security" functions all scored higher, reflecting perhaps its primary mission. Also of note, was that the strategic goals of the DHS Science and Technology area focused exclusively on identification and development of countermeasures to chemical, biological, radiological, nuclear, and other terrorist threats. Perhaps this is why DHS was very opposed to continuing funding for flood hazard identification and risk assessment in the recent budgets.

FEMA had developed the capacity for flexibility and well-coordinated, genuine give-and-take partnerships with states and localities. These factors also allowed the FEMA of the 1990s to develop well-conceived programs promoting mitigation for all natural hazards: flooding, severe storms, hurricanes, earthquakes, drought, tornadoes and other events that occur week in and week out somewhere in the nation. Such mitigation programs seek to break the disaster cycle of damage/rebuild/damage, thus saving recovery and repair costs (in large part borne by taxpayers) and also reducing economic disruption due to disasters.

[3] GAO, *Progress Report on Implementation of Mission and Management Functions*, Testimony of David M. Walker

Since FEMA's inclusion in the new DHS in 2002, many things have changed and problems have emerged:

- We have witnessed a distinct loss of effectiveness overall, diminished agency morale and a hobbled capacity to perform the full range of the agency's mission. Contrary to recent arguments made that somehow removing FEMA from DHS would diminish agency morale, experience shows the opposite to be true. Staff left FEMA because they could not get support to make programs effective.
- The critical role DHS plays in protecting the nation from terrorism, unfortunately, has had the effect of diverting significant attention and human and financial resources away from the threat of natural disasters, which are occurring with increasing frequency and intensity. There has been a DHS tax, which involves internal diversion of programmatic funds from various FEMA programs to DHS.
- Slowdowns due to the added layers of the large DHS bureaucracy have been dramatic, affecting both FEMA headquarters and its regional offices. This has seriously affected rulemaking and policy development as well as regulatory actions and the administration of grant programs for mitigating damage. For example, only now is FEMA writing rules to implement elements of the National Flood Insurance Reform Act of 2004 – Increased Cost of Compliance provisions. It was just a year ago that we finally had rulemaking on the Severe Repetitive Loss pilot program created by that legislation. We are aware that many of these delays were due to DHS review, and have seen situations where even OMB has been frustrated by how long it takes to get FEMA related responses from DHS.
- Ripple effects are evident in state and local emergency management, public safety and disaster mitigation capacities, as states often attempt to mirror the DHS organization. The homeland security and emergency management functions have been arranged in differing organizational structures from state to state, but the state level coordination between the two functions is often less than clear or effective. At the state level, we've seen numerous instances of staff that had worked on natural disaster issues being diverted to homeland security functions.
- Lack of DHS comprehension of and commitment to key FEMA activities has

(Washington: 2007).

become clear. Several examples follow.

1. *Mapping of flood risk areas* Although an ambitious flood map modernization plan was initiated at the direction of OMB, DHS opposed continued funding of mapping activities in the internal budget request process. It is important for FEMA to map natural hazard risk areas so communities and citizens are aware of the true hazard and can plan for and mitigate those hazards. A key part of this process is up-to-date hazard identification and associated budgeting. It also includes the identification of dam and levee failure zones, and identification of high hazard dams. As these hazard maps are developed, FEMA must work with communities to ensure the maps reflect local development impacts and other community needs.
2. *Hazard plan development* Community hazard mitigation plans (natural hazard plans v. terrorism plans) must be developed in open communication with all sectors of the community involved, including the public. The process is totally different for homeland security planning. In recent work to develop a national hurricane plan, the focus was on preparedness and response. Because of the make-up and focus of DHS, those federal partners participating in plan development included the Coast Guard, the FBI and military, yet included no participation from the National Hurricane Center or NOAA-a critical exclusion.
3. *Personnel backgrounds and expertise* The Human Resources criteria of DHS have reportedly affected the ability of parts of FEMA to attract job applicants with experience and expertise appropriate to certain kinds of jobs. A need for hazard mitigation experience, for example, is mostly translated into a request for hazard materials and first responder experience.
4. *IT functions hampered* At times FEMA's IT needs cannot be met because of the very structured security systems of DHS. The Department apparently applies the same strict security requirements to all of its component agencies without regard to FEMA's need to both collect and disseminate information in a more open fashion. Efforts to develop common sense IT data linkages have been thwarted.

After the "wake up call" of the 2004 and 2005 hurricanes, DHS did begin to pay more attention to natural disaster preparedness and response elements. However, the other two crucial

elements of a sound disaster policy –mitigation and recovery – have remained lost in the other activities of DHS. This is despite the release of a report by the National Institute of Building Sciences that documented a 4-to-1 benefit-to-cost ratio for investment in mitigation. We have all heard the DHS Secretary of the past several years refer to FEMA as a response agency. FEMA is far more than that and national disaster policy extends far beyond response.

- **Disaster policy encompasses hazard mitigation, preparedness, response and recovery. Under DHS, there has been woefully inadequate attention to the hazard mitigation and long-term recovery components of the disaster equation. The effort to reduce damages, costs and human suffering caused by natural disasters can only succeed when functioning in close cooperation with state and local officials.**

E. A 21ST CENTURY FRAMEWORK FOR HAZARDS MANAGEMENT AND RISK REDUCTION

As we enter the 21st century, some things we know to be true are that the climate is changing and that this will have profound effects on the hazards and their impact the United States faces. We are in a dangerous world where terrorism –both domestic and foreign – are priorities; while at the same time a comprehensive emergency management system had evolved to the point where it is an effective way to address hazards when it is allowed to function properly.

While PKEMRA has been helpful, ASFPM believes that an independent FEMA, as proposed under HR 1174 is the best solution. An independent FEMA can focus on all-hazards comprehensive emergency management while DHS can and should continue to work in focus on preventing terrorist attacks.

- **RECOMMENDATIONS: Develop a 21st century framework for hazards management and risk reduction that will:**
  - **Establish an independent FEMA with a clear line of authority to the President and that has the mission of all-hazards emergency management (included in HR 1174)**
  - **Maintain a focus on terrorism prevention within DHS**

- **Establish a liaison office to ensure coordination between DHS and FEMA (provided in HR 1174)**
- **Maintain stakeholder advisory groups to counsel the FEMA director nationally and regionally (included in HR 1174)**
- **Require a level of competency in comprehensive emergency management for FEMA leadership positions (included in HR 1174)**
- **Study and develop the appropriate measures and authorities for catastrophic events**
- **Reestablish mitigation and community resiliency as the cornerstones of comprehensive loss reduction**
- **Coordinate FEMA's mission and actions closely with state and local officials based on the principles of open communication, information sharing, and capability building**
- **Exhibit Federal leadership in policy development that can reduce risk, including updating the federal Executive Orders**

CONCLUSION

Congress and the Administration are working to stimulate the economy, improve public health and safety, invest in infrastructure with attention to sustainability, create jobs, and lay the foundation for economic expansion for the generations to come. This nation will be one of the fastest growing nations in the world over the next 50 years, adding 100 to 150 million people. This will result in heavy development pressure in many high risk flood areas along our coasts and rivers and other hazard areas. While state and local governments make decisions, such as land use, to implement national public safety priorities, the federal government must provide the necessary guidance and policy framework to reduce the potentially huge increases in flood and other natural disaster damages and catastrophic disaster costs to ensure our economic and social security.

We understand that the original concept for including FEMA within DHS was likely based on the pre-existing effective partnerships between FEMA and state and local officials and the anticipated usefulness of those partnerships in a terrorist attack. However, if the forcing of FEMA's distinct

culture and mission into another results in undermining the health of those partnerships and the overall ability of FEMA to work with its state and local partners to perform its all-hazards mission, then something isn't working.

The Department of Homeland Security is six years old. Its creation has been an ambitious and important effort in support of our national security. We must not, however, make the mistake of thinking that DHS was created as a perfect product. Enough time has elapsed to evaluate what is working and what isn't. We believe that restoration of FEMA to independent status, reporting directly to the President, will renew and invigorate the federal government's capacity to develop policy, support state and local officials and work effectively with other federal agencies and the Congress in all areas of disaster mitigation, preparedness, response and recovery.

An independent FEMA is essential to the disaster resilience of our nation and its communities.
We must let FEMA be FEMA.

The ASFPM represents the federal government's state and local partners in the continuing quest to reduce flood damages and disasters. Today, we once again stand at a crossroads--- with an opportunity to work with you to refine the national disaster framework that will serve the nation for decades to come. Thank you for the opportunity to provide the wisdom and expertise of our members on these important issues.

For more information, please contact Larry Larson, ASFPM Executive Director (608) 274-0123 (larry@floods.org),

Committee on Transportation and Infrastructure
U.S. House of Representatives
May 14, 2009

Statement of Mitchell L. Moss
Henry Hart Rice Professor of Urban Policy and Planning
Robert F. Wagner Graduate School of Public Service
New York University

Mr. Chairman: My name is Mitchell L. Moss and I am a Professor of Urban Policy and Planning at New York University. It is a privilege to be invited to testify this morning before the Committee on Transportation and Infrastructure of the U.S. House of Representatives.

My remarks today are based on research that I have conducted about the Stafford Act, work that has been supported, in part, by the Center for Catastrophe Preparedness and Response at New York University.

Let me state at the outset that I believe a strong, independent FEMA is essential for responding to disasters and catastrophes in the United States. As you know, the responsibility for responding to disasters is fundamentally one that falls on state and local governments. We should not hamper the capacity of first responders across the country by embedding FEMA within a massive bureaucracy, weighing them down with competing missions, cultures, and budgetary priorities.

Following the creation of the U.S. Department of Homeland Security, FEMA lost its status as an independent agency,

suddenly finding itself as a relatively small entity of fewer than 3,000 individuals competing for attention and resources within a mammoth federal government organization of 180,000 employees.

As I note in "The Stafford Act and Priorities for Reform," once "FEMA was folded into DHS, three our of every four grant dollars provided by FEMA for local preparedness and first-responders went to terrorism-related measures --- in other words, $2 billion in grants to prevent terrorist attacks, but initially, only $180 million for natural disasters." (Mitchell Moss, Charles Shellhamer and David Berman, "The Stafford Act and Priorities for Reform," Journal of Homeland Security and Emergency Management, Volume 6, No.1, 2009).

FEMA's mission to help communities prepare for and respond to all hazards is not intrinsically congruent with the larger goal of the U.S. Department of Homeland Security, to protect the nation's borders and prevent a large scale terrorist attack.

As early as 2003, the U. S. Government Accounting Office warned that FEMA's placement within the Department of Homeland Security affected its ability to focus on vital areas such as natural disasters, hazard mitigation, and flood insurance. Reports prepared by the U.S. House of Representatives and the U.S. Senate, after Hurricane Katrina, noted that the placement of FEMA within the Department of Homeland Security limited its ability to respond effectively to that disaster.

There are four characteristics of disaster assistance that should be considered in any effort to reform the current federal structure of disaster assistance.

1. Although we have improved our ability to prepare for and even anticipate the advent of disasters, the actual impact

and effects of disasters are not predictable. Disasters disrupt communities in ways that we cannot foresee. And, it is the responsibility of our state and local governments as well as civic organizations to be the first-responders. At the federal level, FEMA must be prepared to act quickly and with dispatch. Any organizational structure that adds to delay costs lives and puts communities at risk. Simply put, we need FEMA to be designed so that it can provide assistance and resources to states and localities quickly.

2. Providing disaster assistance in the United States requires flexibility as well as the capacity to respond quickly, to forge creative solutions to disasters based on the distinct socio-economic and physical characteristics of the fifty states. For disaster assistance to be effective, FEMA must work collaboratively with states and localities as well as the skills to mobilize other federal agencies.

Disaster assistance cannot be done by a single agency; it involves cooperation and coordination among a vast array of public, nonprofit, and private sector groups. By having an agency with cabinet-level status, directly reporting to the President, FEMA is better-positioned to do its job, and to call upon other federal agencies to assist as needed.

3. Following a disaster, it is vital for local governments to perform their essential tasks. This is an example of how FEMA does not replace or substitute for the work of other units of government. Debris and trash must be removed. Law and order must be restored. Buildings need to be inspected to determine if they are safe. Strategy must be developed for rebuilding what was lost.

Therefore, it is important to strengthen FEMA's capacity to assist localities as well as to make it independent; at the present time, FEMA covers the overtime costs of local

government employees involved in disaster recovery work, but when a local government has its tax base destroyed after a disaster, it cannot pay the salaries of its employees, much less overtime. After Hurricane Katrina, New Orleans was forced to lay off 30,000 workers due to a lack of public funds. Provisions must be included in any reform of the Stafford Act to allow FEMA to fund the salaries and overtime of state and local government employees for a designated period of time after a catastrophe.

Admittedly, Congress has recognized the limitations of the Stafford Act and established special programs to provide additional assistance following a catastrophe. After the Northridge earthquake in Southern California, Congress appropriated $11 billion. In response to the September 11 terrorist attack, Congress appropriated $40 billion, and $110 billion was appropriated after Hurricanes Katrina and Rita.

4. As we know, utilities such as power lines, telephone towers and antennas, as well as water systems are often destroyed or damaged during a disaster. The resumption of utilities is essential following a catastrophe. Yet, the Stafford Act only covers public and non-profit utilities, failing to recognize the role of profit-making utilities, especially in today's deregulated environment.

After the September 11 terrorist attack in New York City, Con Edison, the private utility operating in New York City, lost a major substation in lower Manhattan, and Verizon's major telecommunications facility at 140 West Street, just across the street from the World Trade Center, was seriously damaged, disrupting millions of phone and computer lines. The cost of restoring and rebuilding this infrastructure was not eligible for reimbursement under the Stafford Act since neither company met the definition of a public or non-profit utility.

Congress did appropriate $783 million through the U.S. Department of Housing and Urban Development to compensate for damaged properties and businesses, including the restoration of utility infrastructure related to the September 11 attack, but it required more than two years – including extensive legal battles – for energy and telecommunications to get reimbursed.

Hurricane Katrina destroyed more than three million customer phone lines and more than a thousand cell phone sites. Private telecommunications firms moved quickly to repair phone lines in New Orleans, often moving faster than the federal government. But, "utility workers are not treated as emergency responders." Furthermore, when BellSouth sought security escorts to accompany their workers into dangerous areas and requested "priority" access to food, fuel, water and shelter from the federal government," they were denied because the Stafford Act does not recognize utility workers as "emergency responders." (Moss et al, Journal of Homeland Security and Emergency Management).

Mr. Chairman, let me close by simply pointing out that we have learned a great deal about preparing for and responding to disasters over the past century. More than a hundred years ago, we considered responding to disasters to be the responsibility of charities and civic groups. Over time, we have come to recognize that government has a vital role to play in disaster assistance and, as the hearing report prepared by this committee points out, the scale of federal disaster assistance has grown substantially in recent decades. Based on our research it is clear that a strong, independent FEMA is essential to improve our nation's capacity to act quickly and effectively in response to disasters.

Statement for the Record
Of
James L. Witt, CEO, James Lee Witt Associates, a part of Global Options
&
Former Director of the Federal Emergency Management Agency (FEMA)

Presented to the

Committee on Transportation and Infrastructure
United States House of Representatives

May 14, 2009

FEMA as Part of the Department of Homeland Security: Challeges for Agency Reform and to All-Hazards Emergency Management

May 14, 2009

Statement of James L. Witt, CEO, James Lee Witt Associates, a part of Global Options Group Inc. &
Former Director of the Federal Emergency Management Agency (FEMA)

Mr. Chairman and distinguished members of the committee, thank you for inviting me to submit testimony for today's hearing. I appreciate the opportunity to provide you with my thoughts about the Federal Emergency Management Agency (FEMA), its readiness to face the challenges of its all-hazards mission, and its placement within the Department of Homeland Security.

I would especially like to thank the members of this committee and the staff for taking its oversight role and responsibilities so seriously. I appreciate the fact that Chairman Oberstar, Congressman Young, and this committee were the lone voices expressing concern and raising objections to the inclusion of FEMA as a part of the Department of Homeland Security (DHS) when it was being formed in 2002. As I stated previously when I testified before this Committee back in 2007, my concern at that time was that including FEMA as a part of the newly formed DHS would dilute the mission of the Department and force FEMA to be overly focused on mitigating one hazard at the expense of others. I was concerned that rolling 22 agencies and 180,000 employees into one government bureaucracy was not the most effective or efficient way to address the threat of terrorism. I felt that simply throwing all the agencies that had some piece of terrorism prevention together, regardless of how central that responsibility was to that agency's overall mission, was not a good idea. I believed that not allowing DHS to focus like a laser on its core missions -- preventing future terrorist attacks, intelligence gathering and analysis, and border protection -- and by shifting some of the focus of FEMA from consequence management for all hazards to being overly focused on terrorism preparedness and recovery, as a part of DHS, was not a good strategy for success.

Over the past six years, we have seen the consequences of making FEMA a part of DHS. Some say that the poor results are due to DHS being new – "juvenile," so to speak – and that better performance will come in the years ahead. Many claim that reorganizations are difficult and disruptive, and value the avoidance of those costs above possible gains in organizational effectiveness. Still others point to small and less-challenging events that occurred in recent years to make the case that times are changing for the better, while concurrently overlooking or discounting the substantial and continuing problems, particularly when it comes to supporting

recovery, in places like Louisiana, Iowa, and Texas. But the fact remains that we have heard the states and local governments that rely on FEMA and its all-hazards support increase the volume of their dissatisfaction with the agency's performance.

I am a realist. I understand that FEMA is in DHS, and even if the agency were to be removed, such a transition would rightfully take time for the Obama Administration to consider and plan so that it occurs in the best way possible. I also understand that even if such a decision were made – which is by no means a certainty, given the formidable opposition to such an action in certain areas of the Congress and special interest groups – a transition back to an independent FEMA will present significant challenges and take time. And most recently, I have learned that Secretary Napolitano has indicated that the Obama Administration supports keeping FEMA in DHS.

For those reasons, I think it important for me to state that while I believe an independent FEMA would be the best solution for our country, the Agency can be made to succeed as part of DHS, if the right leadership is present, management commitments are made, agency mission and focus can be successfully adjusted to focus again on the needs of its customers, reporting chains and authorities can be clarified and streamlined, and greater focus on natural as well as man-made hazards are emphasized in its work. And I believe that the Katrina Reform Act, if fully implemented in the spirit intended by Congress and this Committee, would improve things greatly. My optimism in this regard is especially the case under the leadership of Secretary Janet Napolitano, who I believe understands the importance of the all-hazards mission of FEMA and is committed to avoiding many of the mistakes of the past, and Craig Fugate, who brings a great deal of professionalism and real-world experience to the table as the Administrator for FEMA. I think both are excellent choices who will help make things happen for the better. But leadership is only part of the puzzle.

I do feel, however, that the challenges of making FEMA a model of government effectiveness once again while it remains a part of DHS will be more challenging and more dependent on the personality and priorities of the people sitting in key positions at DHS and FEMA. We cannot count on always having the quality leadership that the Obama Administration has put in place, and the risk that decisions are ultimately being made, evaluated or adjudicated by people at DHS who do not understand emergency management – particularly the unique qualities, issues, and requirements of larger or catastrophic events, and how those differ from more "garden variety" events – should raise some concern. A FEMA within DHS can be made to function better than it has in the past, and our nation's readiness and FEMA's assistance to States and locals can be improved significantly, but it will always be more difficult when it is buried deep within a large bureaucracy where natural disaster preparedness, mitigation, response and recovery are relatively inconsequential in terms of budget and staffing levels. And DHS will always face the challenge of being diverted by the occurrence of natural disasters, which is not and should not be the primary focus of our nation's homeland security apparatus.

When FEMA was first incorporated into DHS in 2003, I believe it was done with the best of intentions. The result, however, was highly problematic. FEMA's all-hazards mission suffered as assets and funding were redirected to the terrorism mission of DHS. Preparedness functions were stripped away and positioned elsewhere in the department. Many of the people at DHS overseeing FEMA were neither career emergency managers nor experienced with disaster

response and recovery. And FEMA was "demoted" from an independent agency with Cabinet-level status reporting directly to the President to a mere office within DHS.

Organizationally, very little has changed since then to make things much better, with one notable exception: the Post-Katrina Reform Act, which strengthened FEMA's management structures, enhanced certain authorities, returned preparedness functions to the Agency that were stripped from the agency by DHS back in 2003, and provided a more direct reporting chain between the FEMA Administrator and the President in the event of a disaster. I commend this Committee for spearheading this important piece of legislation, although it's important to note that I and many others believe it has not been fully implemented, and even in those areas where it has been, it often was not done in a way that meets the letter and intent of the law.

Beyond the organizational realm, since Hurricanes Katrina and Rita, FEMA has also undergone a number of internal changes designed to better position the agency to more effectively respond to disasters, including reforms to its logistics capabilities, and greater commitments to catastrophic event planning and preparedness. The realignment of recovery leadership in Louisiana, and the new "can-do" and partnership-driven attitude by the new team in place has been a welcome breath of fresh air. And since Secretary Napolitano took over the helm of the ship at DHS, the agency has taken both symbolic and organizational steps to make FEMA more customer-focused, more nimble, and less bureaucratic, at least when it comes to disaster response. These reforms and changes may provide some improvements in agency capabilities, but the truly systemic reforms to agency structures, programs, and culture have yet to happen. Under the best of circumstances, this will take time, and the challenge of doing what needs to be done within a DHS structure that has different priorities and narrower focus could be significant.

So, what is needed to make FEMA a model of effectiveness and good government once again? Whether the agency is inside or outside of DHS, there are a number of issues that must be addressed:

- **Refocusing the agency on meeting the needs of its customers, rather than just delivering programs**: For many years now, FEMA under DHS has ignored the States and local governments they are there to serve. Emphasis has been on establishing rules and safeguards rather than addressing customer needs, using the maximum amount of flexibility in the process. Relationships have suffered and programs have become inflexible to meet real-world problems, thereby reducing FEMA's ability to successfully achieve its mission. What has been lost here is that government programs at FEMA and elsewhere are only in place to serve the public and solve problems.

  I am convinced that this problem will require real cultural change within the agency, and a broad reassessment of FEMA's legal authorities, regulations and policies, and the capabilities and flexibility that they provide. This will be quite a formidable challenge for Craig Fugate, and if FEMA remains within DHS, it will take the time and attention of the DHS Secretary as well.

  Congress will clearly have a significant role in this effort, particularly when it comes to the Stafford Act and oversight of FEMA's efforts to make progress in this regard. But based on my experience at FEMA and in the private sector, FEMA will need to pursue a three-

pronged approach: involving FEMA's employees in the redefinition of the agency's mission; empowering personnel, particularly the FEMA Regional Offices, to make decisions and flexibly deliver programs; and re-engaging with state and local stakeholders.

- **Full implementation of the Post-Katrina Reform Act**: DHS and FEMA have only selectively implemented the provisions of the Post-Katrina Reform Act, despite oversight from this Committee and a number of reports, including from the General Accounting Office, indicating that the reforms identified in the Act would go a long way toward correcting problems that occurred in Katrina and other disasters. Now, with a new DHS Secretary and with Craig Fugate as the new FEMA Administrator, hopefully that is something that can be addressed.

- **A Return to All-Hazards**: Since 2003, many of the annual grant funding streams, personnel (including vacancies), and programs have been redirected by DHS or modified in order to achieve single-hazard mission preparedness that continues to receive top priority for DHS activities today. For instance, FEMA provides Emergency Management Preparedness Grants (EMPG) for States and local governments to build baseline emergency management capabilities and staffing, yet the funding is provided with substantial strings attached (such as the linking of planning efforts funded with said monies to be directly tied to DHS Planning Scenarios, most of which deal with single-hazard chemical, biological, radiological, and terrorist-related events). This is a continuing problem that has degraded our nation's preparedness for the most common disaster scenarios – natural hazard events like floods, severe storms and hurricanes – at the expense of DHS' terrorism mission. To address this, FEMA's personnel and resources, and the way in which the agency designs and delivers its programs and directs its funding, need to be refocused to build broader all-hazards capabilities.

  When it comes to "Consequence Management", it does not really matter whether an earthquake or an explosion brings down a building. It does not matter whether an area has been contaminated by an accidental hazardous material spill or an intentional act of terrorism. Managing the consequences of a disaster by performing the necessary response activities of search, rescue, evacuation, sheltering in place, and decontamination are done with the same tools and procedures regardless of a disaster's cause. Additionally, those conducting recovery operations need to coordinate resources for emergency food, sheltering, clothing, temporary housing, or even longer-term repair and rebuilding in the same way, whether the disaster was triggered by a natural hazard or a terrorist act. If there is evidence that human beings may have purposely triggered the disaster there will be a need for greater coordination with law enforcement professionals. When dealing with an incident caused by terrorists, the disaster site then also becomes a crime scene and requires the collection of evidence. Otherwise, response and recovery operations are truly conducted in an all-hazards way that is less concerned with the cause or origin of the disaster, but rather how the consequences will be managed.

  There is, however, a difference between terrorism and natural disasters on the front end. How we attempt to prevent a terrorist act or mitigate a particular natural hazard can vary a great deal. Acquiring bomb detection tools will not help to mitigate damage from an

earthquake. Elevating or relocating structures out of the floodplain will not prevent a chemical, biological, radiological, or nuclear incident perpetrated by a terrorist.

When I was FEMA Director, we worked with communities to help them assess their hazards so that they could develop a risk-based plan to mitigate those risks. Then organizationally, we realigned FEMA to more accurately reflect the risks and hazards that communities faced on a more regular basis.

While we can and do attempt to identify and address the risk of terrorism through better intelligence, improved security, and citizen awareness campaigns to identify suspicious behavior, there is no real way to predict terrorism with any great accuracy. Does that mean that we should not even try to address our vulnerability to terrorism? Certainly not. What it does mean, however, is that co-mingling the funding and resources to mitigate natural hazards - that we can predict with some accuracy, with funding and resources to prevent terrorism – with funding for hazards for which there is almost no way to predict frequency or magnitude, creates an approach that is not based on risk and short changes each of these vital missions.

- **Clarifying Responsibilities for Consequences Management**. The all-hazards discussion leads seamlessly into the need to define and draw distinctions between "prevention" and "consequences management." If the response to an event is not highly dependent on the specific type of hazard that causes the problem, then consequences management can and should be focused on all-hazards.

  DHS is an agency largely focused on prevention of terrorism and other homeland security threats. FEMA is focused on all-hazards. As discussed above, how one prevents a terrorist event may differ greatly from how one mitigates, say, the impacts of a hurricane or flood. However, how one manages the consequences can be addressed through the development of a high-functioning all-hazards capability in our country. This represents a major distinction between prevention and consequences management that should not be overlooked.

  Should a terrorist or other homeland security-related event occur, other than in the law enforcement realm, other parts of DHS need not and should not be focused on consequences management. FEMA is the all-hazards agency responsible for consequences management. If DHS needs support for an event of national significance related to terrorism or other homeland security event, DHS should be able to call upon those who address event consequences for a living to provide that support. FEMA has had both the authority and demonstrated capability to call upon the resources of other agencies to deliver this support to states and locals under the Stafford Act for many years, and it has proven to be successful (although it was weakened in practice when FEMA became part of DHS, as a result of the demoted status of the agency and the regular efforts of agencies to go around the FEMA Administrator once it was inside DHS). DHS similarly has the ability to ask an agency like FEMA – whether it is inside or outside of DHS -- for assistance with consequences management support after an event of terrorism.

For this reason, I continue to be concerned about the DHS Office of Operations Coordination and the fact that it is neither a part of FEMA, nor reports to the FEMA Administrator. The Office of Operations Coordination establishes a de-facto incident-management function that, alongside its proposed Integrated Planning System, establishes the capability for the DHS secretary to directly plan for and manage incidents irrespective of FEMA and the authorities established by Congress as being in the domain of the FEMA Administrator. In order to keep organizational elements within DHS and FEMA from stepping on each others' toes, the Office of Operations and Coordination and its functions would need to be subsumed by FEMA, placing consequences management responsibilities for an incident of national significance within a single entity.

- **Updating of Presidential Directives #5 and #8**: Now that the Obama Administration is in place, serious attention needs to be focused on updating Homeland Security Presidential Directive 5 ("Management of Domestic Incidents," February 28, 2003) and Directive 8 ("National Preparedness," December 17, 2003) to reflect the requirements of the Hurricane Katrina Recovery Act of 2006. To Congress' credit, the Post-Katrina Reform Act clarifies and strengthens the role of the FEMA administrator, and outlines responsibilities and authorities that reside with the agency. Yet Presidential Directives 5 and 8 do not yet reflect those changes, and in my view, DHS under the previous Administration has used these Directives to ignore changes and new requirements found in law. This significantly increases the likelihood of our nation repeating problems from the past, as well as increasing confusion, poor coordination, and uncertainties related to responsibilities.

- **Separation of Funding Streams to States for Terrorism and Natural Disasters**: One of the changes made when FEMA became a part of DHS is that FEMA became the grant-making entity on behalf of the larger agency, and efforts were made to consolidate grant programs as much as possible. The DHS concept of one stop grants shopping for state and local governments regardless of hazard sounds appealing; however, the impact has required state and local governments to prepare for al-Qaeda and Mother Nature out of the same shrinking pot of money. The result is that neither terrorism nor natural hazard preparedness is being funded appropriately at the Federal level. Our national approach to homeland security is not a risk-based, all-hazards approach, but instead it is a system that unnecessary pits small cities against big cities, states against municipal governments, law enforcement against the fire service, and terrorist prevention against natural disaster preparedness and mitigation.

  The primary reasons for creating DHS were to improve intelligence and information sharing, eliminate turf wars, and to make sure there was not duplication of funding for agencies engaged in anti-terrorism activities. Combining grants intended to augment local law enforcement planning and efforts to protect their communities from international terrorist groups with the funding and resources that state and local governments depend on to build emergency management capacity results in fewer funds for each and the kind of turf wars that the creation of DHS was suppose to end.

- **Development of Catastrophic Disaster Authorities**: As I have stated before this Committee previously, had out nation's emergency management infrastructure not been

weakened at the time of Hurricanes Katrina and Rita, I still believe that the ability to respond to and recover from disasters of this scale would have been strained. I believe that we always learn from each disaster, especially those that are considered to be catastrophic disasters. While the Stafford Act allows the FEMA Director and the President some discretion to be able to address unique circumstances following disasters, I do not believe that all FEMA Directors or Presidents have always exercised this discretion in a way that adequately responds to the extremes of a catastrophic event. I believe that the risk of this problem occurring again is even higher with a FEMA that remains within the Department of Homeland Security, where the likelihood of involvement and interference from people who are not experts in emergency management goes up exponentially.

While I have great confidence in both Secretary Napolitano and Craig Fugate in this regard, and believe that they are committed to avoiding the problems of the past, there is no guarantee that we will always have such qualified and experienced people in key positions at DHS and FEMA in the years to come. Our nation needs to have authorities that recognize that a catastrophic event requires different responses, as well as new tools in the toolbox, that become available automatically when such a serious event occurs.

There are a number of ways to define catastrophic disasters, and I have my own thoughts on how that can be done. I would be happy to share those with the Committee or others in Congress if they so desire. But more important than any particular definition is the recognition that if a disaster meets a certain threshold, then we have a situation that changes the usual assumptions so much that there is a need to streamline some regulations, clarify some legislative language, modify cost-shares and program timelines, and in some cases make statutory changes that will provide the Federal, State, and local governments with the correct tools to recover from such overwhelming events.

The Time to Act is Now

I want to thank the Members of this Committee for advancing the discussion on FEMA's future, and how it needs to improve to meet the needs and expectations of a nation all-too familiar with disasters. It would be all too easy to simply become complacent again, or to conclude that changes in leadership will be sufficient to address all of FEMA's problems. While leadership is critical, it is not enough. This Committee recognizes that, and I applaud you for looking at ways to take action.

I also want to thank Chairman Oberstar for inviting my testimony today, and for furthering the discussion of FEMA's placement in the Department of Homeland Security and whether that best serves our country. As you know, this is a discussion that I have felt has needed to occur for quite a number of years. Whether or not FEMA leaves the Department of Homeland Security and becomes an independent agency again, there are things that can and should be done to position FEMA and this country as a whole to more successfully meet the challenges of all-hazards preparedness, mitigation, response and recovery.

You will certainly hear from a variety of individuals, groups, and organizations on the topic of what needs to happen next with FEMA, and I'm sure that many of us will not agree on the

conclusions. But the fact is that with your help, we are finally having the debate, I think that dialogue on such an important issue is critical to fixing the problems of the past.

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