

SANTA CLARA

POST OFFICE BOX 580
(505) 753-7330
(505) 753-5375 Fax



INDIAN PUEBLO

ESPANOLA, NEW MEXICO
87532
OFFICE OF GOVERNOR

**Written Statement of Governor Walter Dasheno
Santa Clara Pueblo
Before the
Senate Committee on Indian Affairs**

**Oversight Hearing on Facing Floods and Fires –
Emergency Preparedness for Natural Disasters in Native Communities**

Thursday, July 21, 2011

Chairman Akaka, Vice Chairman Barrasso and members of the Committee, my name is Walter Dasheno. I am the Governor of the Pueblo of Santa Clara. Thank you for this opportunity to present to you on the issue of emergency preparedness for natural disasters, including particularly for floods and fires. Regrettably, the Santa Clara Pueblo has developed expertise with both.

As you know, the Santa Clara Pueblo has been devastated by the Las Conchas Fire, which is still burning and which is, itself, a prelude to flooding in the Santa Clara Canyon, which has been stripped of its vegetation and whose soil has become hard-baked and, in the parlance of the hydrologists, is now “hydrophobic”. As the Santa Clara Creek, which flows as a perennial stream out of the canyon passes through the Pueblo itself, any flooding will likely endanger a number of homes, our senior center and our tribal administration buildings. In addition, debris, ash and other residue have contaminated our watershed and will pass into the Rio Grande. As the Department of the Interior, Interagency Burned Area Emergency Response (“BAER”) Team noted in a July 17 report:

“The intense flames from the fire burned trees and vegetation off the steep slopes of the canyon and heated the soils causing severe damage to the natural resources of the area and placing the downstream tribal members of the Santa Clara Pueblo at risk to extreme flooding. The post-fire watershed effects were rife for massive landslides and debris flows which occurred on the afternoon of July 15, 2011. At approximately 2 PM local time an intense thunder storm delivered 1 inch of rain [and perhaps as little as 1/4 inch] in a half hour, producing 10-debris and mud flows to the canyon bottom. The debris flows damaged infrastructure, roads, and delivered massive amounts of rock, debris, and sediment to the four

reservoirs located along the valley floor. The flooding was so intense within the canyon, the stream channel overtopped its banks and caused two of the four dams to fill very rapidly, one of which came within 6 inches of overtopping. The overtopping was narrowly averted by the quick actions of the tribal members by removing bridges and releasing water through an emergency drain. Had the dam overtopped, the entire structure could have failed, delivering a torrent of water to the community of Santa Clara Pueblo which lies downstream. To the credit of the tribe, this potential event was foreseen, and treatments to protect the downstream community were already in place.”

Lt. Gov. Bruce Tafoya, Sheriff John Shije, and I witnessed this event - it was so intense that we were left shaken.

Although mercifully, no lives have been lost and no homes have burned, we have still seen our traditional and treasured homeland and spiritual sanctuary, the Santa Clara Canyon, practically destroyed. The fire came within 10 miles of our village. We estimate that more than 16,000 acres of our forest lands have burned in this fire and, together with the lands that we lost in the Oso Complex Fire of 1998 and the Cerro Grande Fire of 2000, 80% of our forests and a huge part of our heritage have been destroyed. In addition, the fire has burned thousands of acres of our traditional lands that are outside our current reservation and that continue to hold cultural sites and resources of great importance to us. This area encompasses our lands of origin, the P’opii Khanu - the headwaters of our Santa Clara Creek, and numerous cultural and traditional sites. In addition, the loss of the forest is devastating to wildlife and wildlife habitat, recreational resources, and to the purity of our water - which we use for irrigation and many traditional purposes. Throughout this tragedy, the Santa Clara people have shown our grit and determination to persevere and to begin the long road to recovery so that, while my generation may never see the canyon in its glory again, that will not be said of the next generation.

Preparing for the floods. In preparation for the anticipated flooding, we have completed the placing of 3,000 feet of concrete barriers and the filling and placing of 60,000 sand bags. In addition, we have also completed three miles of channel cleaning and debris removal, including cleaning two bridge box culverts and 15 other culverts, removing half a mile of fence from the Santa Clara Creek, and marking and felling over 10 miles of hazard trees on the road up Santa Clara Canyon. The Army Corp of Engineers has been very helpful in this effort and has reviewed the work that has been done and suggested that additional point protection be done around the Day School. We had planned to shock the fish in ponds 2 and 3 and then drain and clean the ponds; however, mud slides and run off interfered with us completing that work.

The lasting effects of the Las Conchas Fire. The fire raises numerous, interrelated, short and long-term concerns for Santa Clara and other surrounding communities. First, we still need fire suppression resources not only to focus on stopping the fire from burning more lands sacred to us, but also for mop up operations and to protect the remaining 20% of our forests. Second, with the onset of the summer monsoon seasons, every afternoon we face the threat of a thunderstorm that will send torrents of water and debris down the Santa Clara Canyon and Creek, creating a huge risk of dam failure and catastrophic flooding for our homes, public buildings and irrigation system. Third, we must address the environmental impacts of this fire. These include water quality impacts as tons of ash, debris and other materials flow into the Santa Clara Creek affecting fisheries, wildlife consumption, agriculture and cultural uses, and safety issues within our Santa Clara Canyon due to the destabilized landscape resulting in falling boulders and dead and down trees. This runoff will eventually reach the Rio Grande, affecting water quality for communities like Santa Fe that are downstream or use the Rio Grande. We are also concerned with the physical health impacts from the huge quantities of smoke, as well as the devastating emotional impact to our community of such a great loss. Fourth, Santa Clara has suffered financially, including not only the direct efforts to address the fire, but also from the closure of Puye Cliff Dwellings, the reduction in arts and crafts sales, and the decline in tourists and visitors to our hotel and casino.

Finally, we must address the long term restoration of the forests. We anticipate will take several decades to address these impacts, but we have set our minds already to this task.

The cruel ironies of the Las Conchas fire. Santa Clara has a large forestry department, numbering some 40 personnel. This department is widely regarded as outstanding. Our Santa Clara fire crews and equipment were assigned and on the front lines fighting this fire. We have a dedicated commitment to the maintenance and restoration of healthy forests on, around and adjacent to the Pueblo. In the management of our own resources, we have worked to ensure against the threat of forest fire. And yet, in the last decade we have faced four forest fires that have threatened our forests – the Oso, Cerro Grande, South Fork and Las Conchas fires – and none of them have originated on our lands. Although fate plays its part, we have suffered horrible consequences largely due to the failure of others to properly guard in some fashion against causing a fire.

For the last several years, Santa Clara has been actively working with the U.S. Forest Service, the BIA and others in an effort to establish a forest management plan and program that would have prevented this catastrophe. This effort has involved numerous meetings in New Mexico and several trips to Washington, D.C. In particular, Santa Clara was working on establishing a partnership under the Tribal Forest Protection Act with the Forest Service to begin a long-term project to address the health of the Forest Service lands around the Pueblo. We were also seeking to assure that if the Valles Caldera, which is adjacent to the reservation, was transferred to the National Park Service, that any agreements we had reached would be honored in the transfer and new agreements could be put in place with the new administrators.

We know that these efforts would have eventually succeeded given enough time. We saw in this fire that where Santa Clara had completed work on fuel breaks the fire was stopped. For example, the back of the canyon was saved due to a 300-acre fuel break that Santa Clara had established with funding from the Collaborative Forest Restoration Program, administered by the U.S. Forest Service. This is a program that should be expanded. Bruce Bauer, Director of Forestry, Santa Clara Pueblo noted that “You could see where the fire made a good run and then just lay down when it hit the break. I’m really glad we did that project or we wouldn’t have seen that island of green.” In an area where the Santa Clara Pueblo has had 80% of its land base burned since the Cerro Grande fire, every sliver of green timber makes a difference to stabilizing soil. In the ten years since the Cerro Grande fire, Santa Clara has planted nearly 1.5 million trees, most of which were burned, destroying the Pueblo’s great labor of restoration of the past decade. Despite our full awareness of the threat, and our efforts to enter into partnerships and seek funding to address the threat, we ran out of time. Nevertheless, we still hope these partnerships will enable Santa Clara to play a significant role in the restoration and rehabilitation of the Forest Service lands around our current reservation.

What is the cost of this fire, and what will be the cost of subsequent remediation and restoration efforts?

In many ways, it is hard for us to grapple with the consequences of this loss and therefore it is hard to put pen to paper and translate this devastation into dollars and cents. Some costs are impossible to calculate, such as:

- What is the value of a forest?
- What is the worth of a canyon?
- How do you apply numbers to a sacred site?
- How do you calculate the meaning of pure water used for traditional purposes?
- What if an event is so great in magnitude that it even affects the identity of one’s people?

While these questions cannot readily be answered, we are putting pen to paper to calculate the cost of responding to the fire, preparing for the floods, and starting the long-term remediation process. We are working with the BAER team and others to develop these numbers and hope to have specific and detailed estimates

within the next few weeks. Although we do not yet have detailed numbers, we anticipate that we are looking at tens of millions of dollars over the next decade if we start immediately. If we delay, the task becomes harder, will take longer, and will cost more.

Federal Agency Involvement. As the fire spread, Santa Clara officials, staff and community members became actively involved in the fire suppression and mitigation efforts. Santa Clara issued a Declaration of Emergency and asked New Mexico Governor Susanna Martinez to issue a disaster declaration for Santa Clara Pueblo. We communicated closely with both Joe Reinartz's and Doug Turman's Type I Incident Management Teams and the Area Command to coordinate resources and advocate for our needs as the fire suppression efforts were implemented. We also met with members of our Congressional Delegation to request immediate federal assistance and an emergency appropriation. We met with local and regional representatives of various federal and state agencies. We also received great support from Charles Galbraith in the White House Office of Intergovernmental Affairs, who organized a conference call with several federal agencies to coordinate response efforts. Santa Clara has worked with the Bureau of Indian Affairs, the U.S. Forest Service, the Army Corps of Engineers and the U.S. Department of Agriculture. Overall, we think their response has been good, but they are often subject to resource limitations, as well as legal restrictions, which hinder action.

We have been especially impressed by the Army Corps of Engineers. In response to a letter from Governor Dasheno, the Corps promptly provided technical support, including hydrologists and engineers, who made recommendations for mitigation of the flood risk. The Albuquerque District declared an emergency, which allowed the Corps to engage in flood risk advance activities, such as provide sandbags, training, construction of flood mitigation features (levies, barrier walls). The Corps has also authorized the use of Corps equipment, but has not let any contracts for work by the Pueblo or private contractors as the local district has not received the necessary funding from the central office in Washington. Once we enter the post-fire period, the Corps' role usually ends. One notable exception was for the Cerro Grande Fire, discussed below. It is worth noting that the Santa Clara Pueblo is the first Tribe in the Nation to negotiate a Federal Cost Sharing Agreement (FCSA) with the US Army Corps of Engineers to conduct a Watershed Feasibility Study, in this case for the entire Pueblo watershed. The Santa Clara Tribal Council passed a Tribal Resolution authorizing Governor Dasheno to sign the FCSA with the Corps. The FCSA is currently being reviewed by the US Army Corps of Engineers HQ. Santa Clara has requested that the Corps Division and Headquarters expedite their review.

The Pueblo has also had an excellent working relationship with the Interior Burned Area Emergency Response (BAER) team. The BAER team has worked closely and daily with Santa Clara's Incident Command.

Difference in response from Cerro Grande Fire to the Las Conchas Fire. The Cerro Grande fire, which burned 6,681 acres of the Santa Clara Pueblo, was started by National Park Service personnel setting a prescribed burn to reduce fuel loads. The fire got out of control, burned a number of structures at Los Alamos National Laboratory, as well as lands of the Santa Clara and San Ildefonso Pueblos. Because of the Federal government's culpability, there was a robust effort, especially in the following year, to address the impact of the fire and to put in place flood barriers and other measures to guard against future fires. There was also substantial funding for remediation. In particular, the Army Corps of Engineers was essentially contracted by the Department of Energy to put in place these measures, in some sense just like one could contract with a private entity. The Corps work, which benefitted Los Alamos greatly in the Las Conchas fire, was not done as a matter of obligation, but because they were paid to do it. Santa Clara has been advised that because this fire was not started by Federal action, it should not expect as robust a response and that indeed it should look for funding only from existing programs at existing funding levels.

Seeking a Federal Disaster Declaration. New Mexico Governor Susana Martinez has declared an emergency in Rio Arriba, Los Alamos and Sandoval Counties, and at the Santa Clara Pueblo, by amended executive order

2011-053, and has made some limited funding available through the New Mexico Department of Homeland Security and Emergency Management. While Santa Clara is appreciative of these actions, we are also asking the Governor to take even larger measures. Specifically, we are asking the Governor to send a request to the President, through the Denton, Texas, Regional Office of the Federal Emergency Management Agency ("FEMA"), pursuant to 42 U.S.C. § 5191 and 44 C.F.R. § 206.36, requesting that the President declare a disaster at Santa Clara Pueblo, and in the portions of Los Alamos, Rio Arriba and Sandoval Counties affected by the fire. Such a declaration by the President would free up substantial assistance through FEMA, assistance that the Pueblo desperately needs and that is currently beyond the State's means.

Because only a state governor can set this process into motion, we would ask this Committee to address why tribal governments, who have a direct government-to-government relationship with the United States, must go through state governors to request Federal disaster relief. Such relief clearly falls within the Federal trust obligation and we would therefore urge that the Congress pass legislation that allows a tribe to directly request this relief when it is needed.

Some Recommendations. As Santa Clara is still in the middle of this disaster, we have only had limited time to consider recommendations. We are still learning and will likely have more recommendations in the future. However, at present, we would make the following recommendations:

- 1) Authorize Indian Tribes to be able to request directly of the President a Federal Disaster Declaration.
- 2) Schedule an oversight field hearing in the coming months to assess the progress of the Santa Clara/Federal mitigation/restoration/rehabilitation effort and to facilitate planning for the years to come.
- 3) Work with the Administration and the Appropriations Committees to include language in any budget requests and negotiations for emergency appropriations for tribal hazard mitigation / watershed restoration / BAER Plan implementation in general, and for Santa Clara in particular. Such language could be in the debt ceiling, FY 2011 supplemental and/or FY 2012 appropriations.
- 4) Direct key agencies (including Interior, Energy, Agriculture, Army Corps of Engineers, Homeland Security, Housing and Urban Development, and Commerce) to establish an inter-agency standing taskforce to address Indian Country emergencies. Such emergencies are regular occurrences and such a standing committee could facilitate fast responses in the future.
- 5) Authorize and direct the agencies to allocate resources to Santa Clara for hazard mitigation / watershed restoration / Burned Area Emergency Rehabilitation ("BAER") Plan implementation, including the reprogramming of resources as necessary to address the immediate emergency nature of this crisis and to generally respond in an expedited manner to tribal requests.

Conclusion. Never again in our lifetime will we see our traditional and treasured homeland and spiritual sanctuary, the Santa Clara Canyon, as we have known it. It will take generations for our community and lands to recover from the devastation of this fire. But this is our only homeland; it is the place we have been entrusted with since time immemorial. While we intend to devote the resources we can to the healing of our land and the protection of our community we do not have the resources to do it alone. We turn in this hour of need to our Federal trustee and ask for your sustained assistance in addressing this calamity and assuring the remediation of our sacred homeland.

Summary of Las Conchas Fire and Santa Clara Pueblo

Fire Status

- Las Conchas Fire – 150,000+ acres overall.
- 16,367 acres of Santa Clara Reservation within burn area, plus thousands of acres of ancestral homeland currently managed by U.S. Forest Service.
- 30% of reservation.
- 45% of Santa Clara Creek Watershed, including *P'opii Khanu*, the Headwaters area.
- 80% of our forest burned in this 3 other wildfires in past 13 years.
- Fire still actively burning in several locations.

Short and Long-Term Hazards and Concerns

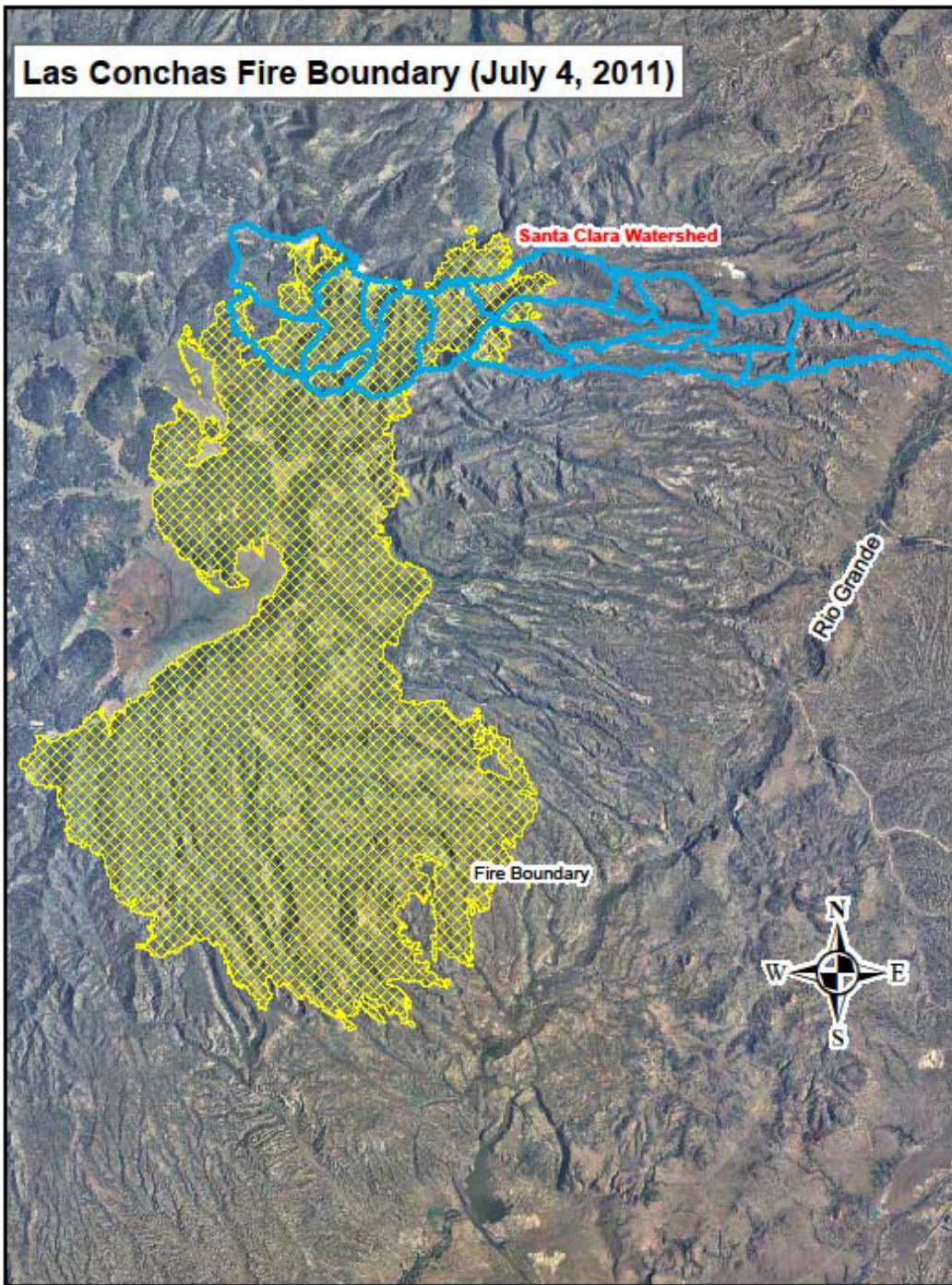
- Devastated by the vast damage to our once-beautiful Santa Clara Canyon.
- Full containment of the remaining fire and preservation of remaining unburned forest inside burn area.
- High potential for catastrophic flooding on our homes, public buildings and irrigation system due to summer monsoons, lack of vegetation, hydrophobic soils and sediment and ash transport:
 - Preliminary model shows Santa Clara Creek flow may increase **by 15 times** (from 300 CFS to 4,600 CFS) in just a two year flood plain event!
 - For a 100 year event, flow would increase from 4,500 CFS to 25,000 CFS.
 - The State Road 30 Bridge is designed for about 15,000 CFS maximum.
- Significant impacts to water quality for fisheries, wildlife consumption, agriculture and cultural uses from tons of ash, debris and other materials flow – will also impact Rio Grande.
- Loss of vital plant and animal habitat / damage to significant cultural sites and resources throughout fire.
- Ongoing economic impact on our Pueblo and tribal members from fire, extreme smoke and fire suppression efforts (such as the closure of Puye Cliff Dwellings, reduction in arts and crafts sales to the decline in tourists to our hotel / casino).
- Adverse physical and behavioral health impacts to community members (e.g. smoke impacts on our elders and others with asthma, devastating emotional impacts of losing so much of our precious homelands).
- Safety issues within our Santa Clara Canyon due to the destabilized landscape resulting in falling boulders and dead and down trees.

Current Actions

- Santa Clara Pueblo Tribal Council issued State of Emergency Declaration on June 30, 2011.
- Designated top-level tribal liaisons who have worked diligently with both Joe Reinartz's Type I Incident Management Team and the Area Command Team.
- Dedicated Santa Clara fire crews, other personnel and resources to the fire suppression, mitigation and response efforts.
- Established Santa Clara Incident Command structure on July 6, 2011 to focus on flooding prevention, mitigation and evacuation.
 - Notified community and implementing “pre-evacuation” preparation process
- Working with U.S. Army Corp of Engineers and BAER / BIA hydrologists and soil scientists to model and project increased runoff and flood potential.
- Conducting risk assessment / implementing “Lower Santa Clara Creek Flood Protection Project”
 - Installing 460 K-Rails, 48,000 sandbags and jersey barriers as very short-term measures – these will not provide the needed flood protection measures for the community.

- In short term, will also need earthen berms on both sides of creek, flood walls in Santa Clara Pueblo, precipitation monitoring and early warning system, precipitation monitoring and early warning system, hydrology modeling of new watershed, catchments basin bellow Sawyer designed to handle run off from 100 year event.
- Implementing media and public relations process to inform Pueblo residents and general public.
- Secured Amendment to Gov. Susanna Martinez' Executive Order 2011-053 (Emergency Declaration) to specifically name Santa Clara Pueblo.
- Coordinating with members of New Mexico Congressional Delegation to secure assistance and resources.
- Coordinating with Charles Galbraith at White House to secure and coordinate assistance and resources from federal agencies.
- Working closely with BIA Regional Director Bill Walker and BIA regional and national staff
- Coordinating with and supporting the DOI BAER Team.
- Establishing disaster and recovery funds at two banks and New Mexico Community Foundation.

Las Conchas Fire Boundary (July 4, 2011)



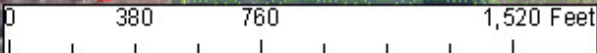
**Santa Clara Creek
0.2% floodplain (16,000 cfs)**



Legend

- SantaClara500yr
- SantaClara100yr

Pueblo



Rio Grande

