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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**

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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 plan² 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.

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 report³, 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.

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