



Photo by Ronnie Schelby

*United States Senator Tom Udall (top) and members of the District took a tour of Santa Clara Pueblo's burned canyon July 7. Udall stands next to a Corps' bulldozer that was destroyed during flooding following last year's Las Conchas Fire. Also pictured (bottom right) is Kris Schafer, chief of Project Management, and Walter Dasheno, governor of Santa Clara Pueblo.*

## What Can the Corps do? Wildfire Effects Mitigation Authorities Explained

The Corps has some limited authority to address flood hazards within watersheds affected by wildfires.

Under Public Law 84-99, the Corps can provide emergency assistance during flood events. However, Corps resources can only be requested by a state emergency management agency or by Tribal governments and can only occur once state, Tribal and local governments have committed all available resources (i.e., workforce, supplies, equipment, funds, National Guard assets, etc.). Activities are limited to the protection of life and the protection of public facilities

or infrastructure in imminent danger of flooding, and the law specifically excludes assistance to individual homeowners and businesses, including agricultural property.

The Corps' emergency assistance is intended, by law, to be temporary in order to meet immediate threats. It is not intended to provide permanent solutions to flooding problems. Categories of emergency assistance permitted under Public Law 84-99 include: **Emergency Preparedness and Planning (Technical Assistance) Activities:** The Corps can provide technical assistance to state and Tribal governments for emergency preparedness

and planning activities.

Assistance is intended for state and local agencies to develop contingency plans, evacuation plans, and exercises to gain preparedness.

### **Post-Flood Response:**

Following a flood event, but prior to a Presidential declaration pursuant to the Stafford Act, the Corps may provide Post-Flood Response assistance. Post-Flood Response activities are limited to actions necessary to save lives and protect public facilities, and residential or commercial developments. The assistance

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can include clearance of debris from transportation routes, critical infrastructure and water courses when it is required to prevent loss of life or significant damage to public property.

**Advance Measures:** The Corps may build Advance Measures flood damage reduction projects on a case-by-case basis. Specific areas that have been impacted by forest fires leaving denuded terrains will be considered based on National Weather Service forecasted rainfall models and expected impacts to life and improved property.

The Corps may perform Advance Measures prior to flooding or flood fighting activities to protect against and mitigate loss of life and significant damages to urban areas, public facilities, and/or critical infrastructure.

**Flood Risk Evaluation Prior to Flooding: Flood Risk Management Program**

**(FRMP):** The Corps established the National Flood Risk Management Program in May 2006 for the purpose of integrating and synchronizing the agency's flood risk management programs and activities, both internally and with counterpart activities of the Department of Homeland Security, FEMA, other federal agencies, State organizations, and regional and local agencies. Specific goals of the

program include: reduce flood risk prior to an event through planning, review of existing flood risk information, review and update flood information after a wildfire or change to the watershed, create current and accurate flood risk information, identify and assess flood hazards posed by aging or damaged flood control infrastructure, and improve public awareness and comprehension of flood hazards and risk.

Upon request, program services are provided to state, regional and local governments, Indian tribes and other non-federal agencies without charge. Program services can also be utilized by other federal agencies and the private sector on a 100 percent cost recovery basis.

**Regulatory Program**

**Authorities:** Under Section 404 of the Clean Water Act, a permit is required from the Corps for activities involving discharge of fill materials into waters of the United States or the redistribution of rocks, gravel and sediments already in the water. This requirement is not waived in emergency situations. Corps regulations at 33 CFR 325.2(e)(4) define an emergency as a situation that "...would result in an unacceptable hazard to life, a significant loss of property or an immediate, unforeseen and significant economic hardship..." Projects associated with emergency and disaster response situations will receive

priority review and expedited response. Potential responses include informing the applicant that a permit is not required for the proposed work, that the project meets the terms and conditions of an issued general permit, or that an individual permit is required. The first two responses can occur within one to three days, if necessary to respond to an emergency.

Using emergency processing procedures, the Corps can issue an individual permit in a week (normally requires two to four months). Determining which waters qualify as a water of the United States can be a complex determination. Any stream, including ephemeral channels, that connect to the larger tributary system, reservoirs and lakes on those streams and wetlands adjacent to the above waters are potentially waters of the United States.

**Permanent Flood Protection Solutions:** The Corps has the authority to construct large-scale flood risk management projects, including dams and engineered levees, through the Civil Works Program. FRMP projects are cost-shared and require a non-Federal sponsor. Cost-sharing varies from feasibility phase (50/50 fed/non-fed) to construction phase (65/35 fed/non-fed). Smaller-scale projects may be constructed through the Corps' Continuing Authorities Program.