

Nosotros la Gente: FEMA - Dysfunction or distraction

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My habitual optimism now faces an insurmountable conclusion concerning the Hermits Peak-Calf Canyon Fire Claims Office. When any governmental effort of that size, especially one with a clear and straightforward mission, remains in chaos two years after initial implementation, something is basically wrong. I have reluctantly concluded that it can't be fixed because someone(s), somewhere along the decision chain, doesn't want it to be fixed.

The question is, why?

When Jay Mitchell assumed the post of Director of FEMA's New Mexico Joint Recovery Office, I had high hopes for improved efficiency within the Hermits Peak-Calf Canyon Fire (HPCC) Claims Office. I have seen some improvement, but it is largely too little too late. This is not the first time I had a sense of hope that the Claims Office would finally focus on its mission of addressing the critical needs of HPCC Fire victims. Repeatedly, I've adopted a "time will tell" attitude. Each time, improvement proved to be baby steps, and hope has turned instead to wondering if those baby steps were just bones tossed to quiet a barking dog.

According to the Claims Office website, as of Sept. 10, they have disbursed \$1.17 billion of the nearly \$4 billion allocated by the U.S. Congress and signed into law by the President. These funds were intended to "make whole" victims of a fire ignited initially by not one but two botched U.S. Forest Service-prescribed burns. That \$1.17 billion is an impressive number. Still, not so much when one notes that it's been two years since the money was allocated, and the question remains: who has received those funds?

It would seem FEMA prefers "low-hanging fruit," such as smoke damage and reforestation, items that can be determined through simple formulas created by FEMA with little bearing on those most devastated by the fire. In comparison, those claiming smoke damage need minimal documentation and effort. It is my

understanding that it is based primarily on being within a designated distance of the burn scar and the square footage of buildings involved. If you meet the criteria, payment ensues.

As local attorney Antonia Roybal-Mack recently wrote in the Santa Fe New Mexican:

“FEMA’s decision to focus resources on the soot and ash machine while victims of total loss are on the back burner is not just a bureaucratic misstep—it’s an insult.”

Or is it payment? I wonder how much of the \$1.7 billion is simply an obligation to pay?’

I know what it’s like for those striving for compensation whenever they’ve lost homes and/or property, including some items which may be required to make a living. I’m one of those people, and it has not been an easy road. Thanks to some improvement in the Claims Office’s efforts to work with those with devastating losses combined with the diligence of the law firm that represents me, I finally have an agreement for a partial payment. Once paid it will allow me to rebuild a home and return to the property I love.

I have received no payment, and it has been two months since I submitted, via my attorney, an agreement to the partial payment offered by FEMA. That raises a question to which I hope to find an answer. On the Claims Office website, the \$1.17 billion in allocations is listed not as payments made but as “Funding Obligations.” To what degree is delayed payment a continuing problem with the Claims Office administration? All I know for sure at this point is my own experience.

Although it has improved, the Claims Office’s expressed disdain for working with those represented by attorneys remains a problem. This is especially critical since the population most motivated, post-fire, to retain attorneys were those most devastated by the fire.

Luckily, this is an area that has seen improvement. I know from my experience that negotiations involving clients with attorneys are now moving forward. How expeditiously, I can’t say, but I can testify that it is finally happening.

Perhaps FEMA’s reluctance to negotiate through attorneys is rooted in how damages are converted into dollars. Attorneys retain their own experts to make evaluations while compiling Proof of Loss. This precludes FEMA from simply using their own methods and issuing unquestioned offers. In a recent letter

to Jay Mitchell and Ben Krakauer, a senior advisor at FEMA, Pam Abreu presented a strong case concerning flaws in FEMA evaluations. In that letter, she states:

“Way past our deadline to receive funding, we continue to receive Letters of Determination from FEMA which are, at best, insulting and demeaning.”

She makes a strong case for why FEMA assessments are undervalued and inappropriate, especially in reference to substantial destruction of timber on their property. Abreu states that FEMA has assessed their property’s severity of damage as minimal burn, moderate burn, and some severe burn. She writes:

“We do not have a single live tree on our mountains. How can that be anything except severe?”

She also questions FEMA’s use of Xactimate, a software used by insurance companies. According to United Policy Holders, an organization dedicated to empowering the insured, Xactimate’s estimates are often too low and generic. While it often results in insurance agents underinsuring properties, in the case of the Claims Office, it can mean offers are far below the actual cost of rebuilding and recovery.

Whatever is going on within FEMA, we struggle to educate urban-based decision-makers that time is of the essence. As Abreu wrote:

“Our land continues to deteriorate. Our erosion is worse. Our patience is brittle.”

Let me return to my original premise when starting this piece. I’ve changed the questions I now ask myself, looking for answers and solutions to this ongoing fight with FEMA. I once asked myself, when will they solve the problems that prevent them from doing their job? Now I ask myself, why don’t they want to fix the problems?

Maybe, just maybe, I should be asking, who doesn’t want to fix the problems?