



Mary Fallin
Governor

March 11, 2016

Elizabeth Zimmerman
Associate Administrator
Office of Response and Recovery
Federal Emergency Management Agency
500 C Street
Washington, D. C.

Through: Regional Administrator Tony Robinson
FEMA Region 6
800 North Loop 288
Denton, TX 76209

Dear Ms. Zimmerman,

Under 44 CFR § 206.46, I wish to appeal your decision to deny Individual Assistance to the Oklahoma counties of **Adair, Cherokee, Delaware, Mayes, McCurtain, Muskogee, Ottawa, Pushmataha and Sequoyah**, as requested in my January 29, 2016 letter (Enclosure 1). You relayed your decision in a letter dated February 11, 2016 (Enclosure 2). With this letter of appeal, I respectfully request that you revisit that decision as is allowed within 44 Code of Federal Regulations, §§206.46 (b), Appeals. I am certain that when you reconsider the information below, along with the information in our original request letter, providing Individual Assistance to citizens of these nine counties will be the only appropriate course of action.

Summary

On December 26, 2015 a cold front moved through Oklahoma bringing with it freezing rain, ice, sleet, snow and flooding. Ice accumulations up to one inch delivered power outages to more than 200,000 homes and businesses, some lasting more than a week, and historic flooding requiring the evacuation of entire communities.

The ice and snow created dangerous travel conditions across a large part of western and central Oklahoma. Farther east, widespread flooding impacted travel due to numerous road closings. The treacherous travel conditions required 170 motorist rescues by transportation, law enforcement, National Guard and emergency management officials. In addition to flash and riverine flooding, the U.S. Army Corps of Engineers was forced to release water from dams despite the certainty of causing additional

flooding to homes and businesses downstream. The National Weather Service issued numerous flash flood warnings as a result of this action.

Eight Oklahomans lost their lives due to the storm. The cause of death on two more fatalities remains pending but is expected to also be storm-related, according to the Office of the Chief Medical Examiner. Additionally, 104 injuries were related to the storm.

Denial of Assistance

On February 10, 2016 you declared Public Assistance for 41 Oklahoma counties under FEMA-4256-DR. On February 11, 2016 you denied the remainder of my request for Individual Assistance for **Adair, Cherokee, Delaware, Mayes, McCurtain, Muskogee, Ottawa, Pushmataha and Sequoyah** counties.

The information contained in the denial letter received February 11, 2016 offers no specific information as to why Individual Assistance was denied. The letter states "...it has been determined that the impact to individuals and households from this event was not of the severity and magnitude to warrant the designation of Individual Assistance under FEMA-4256-DR," giving no explanation as to what information was considered nor the evaluation method used in forming this decision.

I strongly disagree with this assessment and since being denied Individual Assistance, the State has redoubled efforts to document all impacts of the storm.

The State worked with Oklahoma Voluntary Organizations Active in Disaster (OK VOAD), local emergency managers and tribal nations to make sure no one was overlooked. The State distributed news releases and employed social media, asking those with storm damage to send photos and information to a dedicated email address and phone line. Through these efforts we identified additional damaged and destroyed properties in the nine counties.

Your denial of Individual Assistance also comes as the State of Oklahoma has identified a \$1.3 billion budgetary shortfall for FY 2017 due primarily to the downturn in the oil and gas industry. Many Oklahomans have already lost their jobs and the state's work to balance the budget will no doubt have further cascading effects especially on those dependent on social service programs.

This was a widespread weather event, spanning numerous states including Arkansas and Missouri along with Oklahoma. I am at a loss to explain how these neighboring states qualified for Individual Assistance while damage from the same storm in our adjacent Oklahoma counties fell short of garnering the same federal aid. Oklahoma, Arkansas and Missouri residents sustained damage during the same period, from the same storm. Weather systems recognize no county or state lines and yet Oklahomans have been left behind.

Moreover, in all of the nine counties still desperately in need of Individual Assistance, infrastructure was damaged so badly by the storm that Public Assistance was declared. It only makes sense that the same storm system that delivered an estimated \$48 million in damages to roads and bridges, parks and public buildings as well as electric power systems, would similarly damage homes and businesses. The whole community suffers when the citizens' homes and livelihoods are lost without resources to rebuild.

In the case of the residents of these nine counties denied Individual Assistance, it seems these Oklahomans simply were unlucky enough to experience their damage in the wrong state and the wrong counties.

And this marks just the beginning of my examples of the inequities inherent in your decision to deny Individual Assistance.

Over the last 30 days, as we've worked to gather information for this appeal, we've spoken to upwards of 100 Oklahomans in these nine counties. The common thread from disaster survivor to disaster survivor is a failure to understand why their damage and their experience have been nullified by FEMA's failure to assist.

One example is Darrel and Elise Loden, whose home in Cherokee County flooded in the middle of the night on December 28, leaving them with no time to evacuate or gather belongings. They lost everything, even their beloved family pets. Two contractors told them the house is not livable and should be demolished. They do have flood insurance, but it is expected to only cover a portion of the damage and the home's contents are not included. More than 60 days later, the family continues to camp on their property while still paying their full mortgage. As spring severe weather approaches, they know they will not be able to stay for much longer, but they cannot afford to do anything else.

Also in Cherokee County, Chance Imhoff's home was destroyed when it was flooded by 7.5 feet of water for multiple days. Once the water finally receded, he had to tear everything down to the studs in order to get rid of the saturated insulation and interior sheathing. With floodwater nearly reaching the ceiling, the Imhoff's belongings could not be salvaged. They had no flood insurance.

August and Cheryl Miller lost their Mayes County home when the U.S. Army Corps of Engineers directed the Grand River Dam Authority to open the flood gates of the Pensacola Dam. Their home, which was elevated five feet off the ground, still flooded with at least five feet of water inside. The house was destroyed and although they have flood insurance, they have not been able to file a claim because their community, the Town of Strang, does not participate in the National Flood Insurance Program. This same area was impacted by flooding during the May-June 2015 flooding event (DR-4222) and numerous homeowners have now found themselves in the same devastating position as the Millers.

Also in Strang, resident Barbara Dean's double wide mobile home was lifted from its foundation and floated onto the driveway of her neighbors where it settled and filled with five to six feet of flood water. Mrs. Dean is a widow and will be 81 years old in April. Thankfully, her church family was able to move and dispose of the destroyed mobile home and have provided her with a temporary place to live, but she did not have flood insurance and has no other resources to find a permanent home to live out her golden years.

It is clear from the information provided by each of these survivors, their situation has been met with limited disaster recovery resources. Their cases are indicative of so many other Oklahomans impacted by the storm who are depending on Individual Assistance and in most cases it would be difficult if not impossible for them to qualify for a Small Business Administration (SBA) loan.

Justification for Appeal

44 CFR, §206.48 (6) (b) identifies the following six factors considered when evaluating a Governor's request for a major disaster declaration for Individual Assistance:

(1) Concentration of Damages

The State continues to receive damage reports from those impacted by the storm. Initial FEMA-State preliminary damage assessments completed in **Adair, Cherokee, Delaware, Mayes, McCurtain, Muskogee, Ottawa, Pushmataha and Sequoyah** counties showed 207 homes were damaged and of those 157 were destroyed or sustained major damage. Through subsequent assessments, more homes and businesses were identified as having storm damage, bringing the total to 221 homes damaged and of those 171 were destroyed or sustained major damage (Enclosure 3). Additional reports of homes damaged in the storm were received but have not yet been officially assessed (Enclosure 4). **The combined reports show 240 homes were damaged and of those 186 were destroyed or sustained major damage due to the storm.**

(2) Trauma

Many Oklahomans have been traumatized by the storm. Initially, the Oklahoma State Medical Examiner reported four storm-related fatalities. Four more deaths are now attributed to the storm, bringing the total to eight storm-related fatalities and still two more are expected to be attributed to the storm. The Medical Examiner's updated storm-related list of fatalities is:

- 54-year-old female, died December 28, 2015 in Bixby, cause and manner of death pending.
- 36-year-old male, died December 28, 2015 in Scipio, cause of death is drowning and manner of death is accident.
- 61-year-old male, died December 28, 2015 at the Cookson Wildlife Refuge in Bunch, cause of death is hypothermia and manner of death is accident.
- 22-year-old male, died December 28, 2015 in Newkirk, cause of death is drowning due to capsized boat while exposed to freezing temperatures during the winter storm.
- 66-year-old female, died December 28, 2015 in Yukon, cause of death is hypothermia and manner of death is accident.
- 33-year-old male, died December 29, 2015 in Moore, cause and manner of death is pending, however, other significant condition is exposure to freezing temperatures during the winter storm.
- 66-year-old male, died December 29, 2015 in Hinton, cause of death is atherosclerotic cardiovascular disease while exposed to below freezing temperatures during the winter storm.
- 54-year-old male, died December 29, 2015 in Oklahoma City, cause of death is hypothermia and manner of death is accident.

Two months after the storm, housing remains a major issue for those impacted by the storm. Left without other options, numerous families are living in travel trailers and some even in tents. Still more are living day to day with friends and family members and in motels as they continue to search for housing options they can afford. Since most of the survivors were low-income residents whose primary residence was a mobile home on their own land or a home without a mortgage, there was no requirement for maintaining property insurance. Moreover, most of those who did have insurance did not have flood insurance.

(3) Special Populations

In each of the nine counties there are special population issues to consider. All of the counties have a higher index of "Below Poverty" and all of the counties, with the exception of Adair, have a higher index of "Population Over 65" than the U.S. and Oklahoma average (Enclosure 5). In Delaware County alone, the elderly constitute 23 percent of the population compared to the Oklahoma and national average of 14.5 percent. The elderly live on fixed incomes and have little flexibility within their budgets for emergency items. In Pushmataha County, 26.5 percent of the population is below poverty level. Adair County suffers from a poverty level of 26.4 percent. Within Adair County, the town of Stillwell has a 32.7 percent poverty rate.

The State also knows residents in these nine counties have limited household income, allowing many to qualify for numerous social service programs including Public Housing, Project Based Section Eight and Housing Choice Vouchers. Six of the nine counties impacted have at least 20 percent of their population utilizing these programs. Cherokee County has a poverty rate of 34.2 percent with 20.1 percent on Public Assistance Programs. The report also displays the median household income in the communities impacted is \$29,688.55. Populations requiring specific access or functional needs are a great concern to Oklahoma and we take it very seriously when these vulnerable citizens are impacted by a disaster. In the communities impacted, an average of over 20 percent of the households have reported a person living in the home with a disability (Enclosure 6).

Oklahoma has 38 federally recognized Native American tribes. The Cherokee Nation encompasses 14 counties in Oklahoma. The Cherokee Tribal members impacted by the flooding reside in seven of the nine counties included in the Individual Assistance request. The Cherokee Nation has always been one to reach out and assist its members. However, the extent of the flooding impacting 50 percent of their counties and the Cherokee Nation's Capital in Tahlequah, has required the Chief to reach out for assistance through Cherokee Nation Emergency Management. Cherokee Nation Emergency Management immediately requested tribal assistance due to the overwhelming loss in Chewey, Oklahoma which has an elderly population of 14.5 percent. See the Cherokee Nation letter (Enclosure 7) for complete details.

Choctaw Nation Emergency Management reports tribal members in two of the nine counties, McCurtain, and Pushmataha, were impacted by the winter storms and flooding. The Choctaw Nation Emergency Manager states, "At this point, I am concerned that their needs will not be completely met with what we can provide. Additionally, the individuals are still in a situation where they will not have the ability to obtain flood insurance for possible future occurrences. We are doing everything we can to help but I fear that it is not enough." See the Choctaw Nation letter (Enclosure 8) for complete details.

(4) Voluntary Agency Assistance

The Oklahoma Volunteer Organizations Active in Disasters (OKVOAD) provided collaboration that facilitated sheltering and mass feeding for those impacted by the winter storms and flooding that occurred across more than half of the state. The American Red Cross, Salvation Army and Southern Baptist Disaster Relief are among a host of OKVOAD members that assisted on this disaster. This was just one month after the Thanksgiving weekend ice storm struck the state. OKVOAD members were still assisting many Oklahomans with downed trees and other unmet needs when this second deadly storm occurred.

In response to the December storm, the American Red Cross provided immediate emergency needs to disaster survivors throughout the state by managing and supporting 13 shelters, where a total of 120 overnight stays were reported and 2,658 meals and 10,026 snacks were served. Red Cross also distributed 294 clean-up kits, 507 comfort kits, and 7,155 additional bulk items. They also supported first responders with hot meals, snacks, and drinks. The Salvation Army managed and supported five warming stations for those impacted by the storm, serving nearly 400 residents. Their canteens traversed the affected area, delivering food and supplies, including 129 clean-up kits and 58 bulk food items. Moreover, the Salvation Army supported the American Red Cross shelters by providing 1,316 meals, and 3,728 snacks. Their local operations continue to work with the flood survivors. Southern Baptist Disaster Relief served 10,773 meals at shelters and churches throughout the state. They have received more than 1,600 work orders for debris removal and chainsaw teams to clear trees blocking access to homes. The teams have completed mud-outs and served 1,393 survivors with emotional and spiritual care concerns. Feed The Children provided 2,016 frozen meals to support the American Red Cross shelter operations.

Historically, Oklahoma has relied on voluntary agencies during disasters and they have always come through. However, the multitude of disasters, both State and Presidentially declared as well as those not declared experienced in recent years, has depleted resources across the state and left these dedicated organizations scrambling for donations to meet the needs of the survivors. OKVOAD members are currently trying to assist communities in establishing long term recovery committees, however due to the magnitude of loss in these counties over the past year, the resources are few. This has severely limited the amount of assistance they can provide to those impacted by this storm.

(5) Insurance

The percentage of uninsured damaged properties identified in the nine counties is 95.48 percent with only 4.52 percent of residents having flood insurance. The amount of uninsured damaged property is identified by the Federal-State damage assessments which FEMA confirmed on March 11, 2016 (Enclosure 3). Federal disaster assistance is designed to aid those without insurance. We realize the State can request a Small Business Administration (SBA) declaration without FEMA assistance. However, we feel it is essential to do all we can for those with the least amount of resources. While SBA can no doubt help several individuals and business owners, the 95.48 percent uninsured rate combined with the high poverty rate and low income rate leads us to believe there is a large segment of the population which would not qualify for SBA loans.

(6) Average Amount of Individual Assistance by State

The assessments further showed individuals and business owners in the nine counties require nearly \$4.8 million in federal assistance. This includes \$109,168 in Temporary Housing, \$1,686,994 in Repair Assistance, \$2,813,406 in Replacement Assistance and \$252,500 in Other Needs Assistance (Enclosure 9). These are all needs the State has no way to address. Moreover, the severe weather and related damages have overwhelmed, yet again, our Oklahoma Voluntary Organizations Active in Disaster (OKVOAD) as well as our private sector partners. The vast number of Oklahoma disasters, coupled with the current budgetary climate, means these disaster survivors have limited or no options should Individual Assistance not be granted.

A Multi-State Event

As stated before, storms aren't bound by state lines and therefore should be viewed in their totality. Two Missouri counties approved for Individual Assistance, McDonald and Newton, share a border with Oklahoma's Ottawa and Delaware counties, both of which were denied Individual Assistance. Eight Arkansas counties approved for Individual Assistance, Benton, Washington, Crawford, Sebastian, Scott, Polk, Sevier and Little River, share a border with the five denied Oklahoma counties of Adair, Delaware, LeFlore, McCurtain and Sequoyah.

The Oklahoma communities and tribal jurisdictions impacted by the storm in these nine counties have suffered a 76 percent complete or major loss of households, compared to the neighboring Arkansas communities approved for Individual Assistance which suffered a much lower 26.5 percent complete or major loss of households. Furthermore, of the Oklahoma households impacted by the storm, 84 percent are low income whereas only 35 percent of the Arkansas households in counties approved for Individual Assistance are low income. (Enclosure 10).

In addition to the information provided above under "*(3) Special Populations,*" and based on this additional information, it is obvious a majority of the Oklahoma storm survivors do not have repay ability and therefore would not qualify for SBA loans. In review of the SBA criteria, the majority of the survivors would be listed by SBA as "FIT" or Failed Income Test. Without FEMA assistance to support these survivors, they will continue to suffer from financial devastation and therefore the communities in which they live will also feel this direct economic impact.

Weather

Beginning in November, Oklahoma experienced significant rainfall to include the Thanksgiving weekend storm and culminating with the historic late December flooding. Eastern Oklahoma experienced record breaking rainfall with 6 to 12 inches falling during the event, leaving December as the wettest month on record for the state according to the Oklahoma Mesonet. The southeastern and east central climate divisions had astounding averages of 13.01 inches and 12.39 inches, respectively, both more than 9 inches above normal and obviously the wettest on record for those regions. Mt. Herman led the Mesonet with 16.68 inches for the month, and 30 of the Mesonet's 120 stations recorded at least 10 inches of rainfall.

Area lakes, creeks and rivers had little time to recover and subsequently the Army Corps of Engineers released water at Oklahoma dams to include the Pensacola and Keystone dams. This greatly aggravated downstream water levels, adding insult to injury for homes and businesses already damaged by flash and riverine flooding. According to the Army Corps of Engineers, periodic releases from the dams ranged from 20,000 to 222,000 cubic feet per second being released. At these velocities the impacts of the water were widespread. See flood pool information for area lakes and rivers (Enclosure 11).

Recent Disasters

Disaster history for these nine counties marks another factor that should be considered when granting federal assistance. In recent years, these counties have been impacted by multiple weather events. Since 2007 alone, the nine counties have experienced events warranting a total of 71 presidential disaster declarations (Adair 6, Cherokee 5, Delaware 10, Mayes 9, McCurtain 4, Muskogee 9, Ottawa 11, Pushmataha 8 and Sequoyah 9). These declarations represent ice storms, blizzards, wildfires, flooding, tornadoes and other severe storms.

Finally, FEMA touts a policy of “finding a way to yes” when providing assistance to eligible survivors. I only ask you implement this same policy with our eligible citizens in **Adair, Cherokee, Delaware, Mayes, McCurtain, Muskogee, Ottawa, Pushmataha and Sequoyah** counties. Please help our struggling neighbors remain survivors and not victims.

I appreciate your consideration of this request. If additional information is needed, please contact my State Director of Emergency Management, Albert Ashwood.

Sincerely,

A handwritten signature in cursive script that reads "Mary Fallin".

Mary Fallin
Governor

Enclosures