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December 22, 2023

Via Email

Ms. Angela Gladwell
Director, Hermit's Peak/Calf Canyon Claims Office

Re: Follow up from FEMA's incomplete or unanswered questions from their townhall on December 13, 2023

Dear Ms. Gladwell,

I am writing to follow up regarding unanswered questions from the FEMA town hall held Wednesday, December 13, 2023. Several questions were either not answered or the actual question was sidestepped, and no response was given.

First, I inquired what your office is doing now that you have missed the 180-day statutory deadline to make offers under the Act. You responded by stating that FEMA has not missed any deadlines. When I responded by identifying 11 claims from just our office that have now passed the 180-day deadline, you stated you would investigate and get back to me.

To date, we have not received a response from you or your office as to the status of 10 of these claims. As for the eleventh claim, we received a request for additional information 3 days after the 180-day statutory deadline had lapsed. When we asked for an explanation for missing the statutory deadline, the Claims Reviewer stated they were "recently [] out of the office." We received no response to our request for comment on how FEMA intended to address its failure to comply with the deadline.¹

It's worth noting that we currently have 46 total claims that are now past their deadline and have yet to receive any offer. Yet, as of today, we still have not received any response from FEMA on how it intends to address its failure to meet the statutorily imposed deadline for these 46 claims.

Second, I raised concerns that several of our clients have received Flood Insurance Determination Notices that contained and required execution of a **Final Release**. Specifically, these Final Releases required claimants to waive **all** claims against the Claims Office and/or USFS, not just their claim for flood insurance. You indicated that it was not FEMA's intent to require a full waiver of claims and would look into it and circle back.² To date, we have yet to receive a response. Meanwhile, our clients are on the clock and their deadline to accept or appeal the determination continues to approach. It's worth noting that despite the fact that victims are now receiving settlement offers they can either accept or appeal, FEMA has still not yet released any guidelines on the appeals process so that victims can make an informed

¹ This issue was also addressed in a letter sent to you by our office on December 15, 2023.

² This issue was also addressed in a letter sent to you by our office on December 14, 2023.

decision. FEMA continues to state that victims do not need attorneys, but this is a perfect example of one of the many reasons why an attorney is necessary. You are asking victims to sign documents that have a binding legal significance on their claims and, by your own admission, are inaccurate releases.

Please advise immediately how FEMA intends to (1) rectify this for victims that have already inadvertently received, and perhaps signed, a full release and (2) assure the appropriate release is distributed going forward.

Third, I noted that we have received multiple communications from FEMA employees that the Claims Office is not able to make offers on claims that included diminution in value. When I asked about this and pressed for a timeline when FEMA would be ready, you stated studies should be done in “several weeks” and, once those were completed, FEMA would be ready to process claims that included DIV. This, in part, brings me back to the first point, which is what does FEMA intend to do for those claims where the 180-day statutory deadline has already passed and yet FEMA has—by its own admission—not yet evaluated the claim?

Fourth, because some victims are now “on the clock” to accept or appeal determinations, I asked when FEMA intended to release guidelines and protocol to the public on the appeal process, including, but not limited to, who the arbitrators will be, what the timeline is, etc. In response, you touted that no one has appealed their offer yet, suggesting the issue was moot. That could not be further from the truth. A claimant cannot make an educated and informed decision as to whether they should accept or appeal a settlement offer without understanding the full implications of their decision. Furthermore, claimants can’t appeal when there are at least 46 cases where no final offer has yet been made by your office despite it being past the 180-day deadline. We request the appeal protocols be released to the public immediately. If you do not intend to release them by the end of 2023, please explain why they will not be released and if you will grant additional time to appeal since your office has not yet released any details of the appeals process.

Lastly, you stated at the town hall that FEMA projects to spend 7% of the \$3.95 billion on their overhead and costs running the program and the Claims Office. That amounts to about \$276 million dollars. For context, after PG&E filed for bankruptcy in connection with the 2015, 2017 and 2018 California wildfires, a California Bankruptcy court set up a \$13.5 billion fund and hired a professional claims administrator to assist in allocating the funds to the more than 71,479 victims impacted (referred to as the Fire Victim’s Trust). As of this weekend, the Fire Victim’s Trust estimates its total administrative costs will not exceed 2.46%, which is approximately \$345.6 million. Please explain why the administration of the HPCC funds should cost nearly 3x more than Fire Victims Trust.

I look forward to your prompt responses to these questions.

Sincerely,



Jacob Payne, Esq.