

SOUTHWEST TRIBAL HOUSING ALLIANCE

RESOLUTION NO. 2019-01

Requesting Federal Legislation Providing Tribes An Exemption To The Requirements Of The Federal Flood Disaster Protection Act Of 1973

WHEREAS, the Southwest Tribal Housing Alliance (SWTHA) represents 18 Indian Housing Authorities (IHAs) and Tribally Designated Housing Entities (TDHEs) in New Mexico, Arizona and West Texas; and

WHEREAS, the mission and purpose of SWTHA is to promote and advocate for the housing needs of Native Americans in the Southwest region of the United States with a unified voice and to create a forum for the sharing of information that will serve the housing needs of Native people; and

WHEREAS, the Federal Emergency Management Agency (FEMA), through its flood mapping hazard program, identifies flood hazards, assesses flood risks, and partners with states and communities on floodplain management and hazard mitigation actions; and

WHEREAS, FEMA is mandated to flood map the entire nation; and

WHEREAS, FEMA creates flood hazard maps with designated flood zones; and

WHEREAS, in many instances, flood mapping of tribal lands occurs while FEMA is aerially mapping communities surrounding a tribe, and many tribes have been flood mapped in this manner, without the tribes' knowledge or authorization; and

WHEREAS, the Federal Flood Disaster Protection Act of 1973 (the Act), at 42 U.S.C. 4106(a), prohibits the use of federal funds, including the Indian Housing Block Grant (IHBG) and the Indian Community Development Block Grant (ICDBG), on sites that FEMA has mapped as being in a special flood hazard area (SFHA), also referred to as a floodplain, unless a community or tribe participates in the National Flood Insurance Program (NFIP) and purchases flood insurance; and

WHEREAS, the NFIP regulations imposes flood insurance requirements and building restrictions on floodplains; and

WHEREAS, the cost of flood insurance premiums, either through the NFIP or private insurers, is expensive and continues to increase; and

WHEREAS, flood insurance premiums are based on Base Flood Elevations (BFE), and FEMA has not conducted detailed studies to obtain BFEs in all floodplains; and

WHEREAS, many tribes have large residential housing, including HUD-funded housing and mortgaged housing, on FEMA designated floodplains; and

WHEREAS, obtaining flood insurance on a floodplain without a BFE imposes a financial burden on tribes and tribal members in obtaining a BFE on the site; and

WHEREAS, additionally, the FEMA process for changing a flood zone designation puts the burden on tribes and/or their tribal members to challenge errors with the mapping and is an expensive and lengthy process with and without established BFEs; and

WHEREAS, even if a tribe mitigates flood risks, federal funds cannot be spent on homes, including HUD-funded homes needing rehabilitation, on floodplains unless a tribe joins the NFIP; and

WHEREAS, a community (including a tribe) that participates in the NFIP is required to adopt flood standards on floodplains as established by the NFIP and enforce these standards; and

WHEREAS, adopting an approved NFIP flood ordinance is a burdensome and costly process that requires a tribe to hire a certified flood plain manager, develop and enforce flood standards, require certified elevations when building or rehabilitating on floodplains, and maintain tribal records on all new home construction and rehabilitation; and

WHEREAS, many tribes have had their lands flood mapped without detailed studies to determine BFEs, which are necessary to obtain certified elevations; and

WHEREAS, few tribes participate in the NFIP likely due to the administrative, technical, and financial burdens imposed by the NFIP; and

WHEREAS, states are granted an exemption from the Act's requirements that a community join the NFIP before using federal funds on floodplains and said exemption is found at 42 U.S.C. 4003(a)(3); and

WHEREAS, the state exemption applies to federal affordable housing funds provided to states, including HOME funds and CDBG funds, and HUD regulations at 24 CFR 58.6(a)(3) – the HUD environmental regulations, and 24 CFR Part 55.1 (b)(1) – the HUD floodplain management regulations, implement this federal exemption; and

WHEREAS, in 2017, Congressman Steve Pearce of New Mexico agreed to sponsor legislation that would provide tribes with a similar exemption; and

WHEREAS, the legislation would allow tribes to use IHBG and other federal affordable housing funds on floodplains utilizing a tribe's mitigation plan, without requiring a tribe to join the NFIP; and

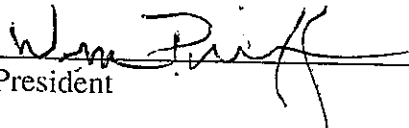
WHEREAS, an exemption would allow a tribe to build and rehabilitate affordable housing with IHBG and other federal housing funds on floodplains upon mitigating the flood risks, without joining the NFIP; and

WHEREAS, it is a sovereign right and a right of self-determination for tribes to assess and mitigate their flood risks and determine the suitability of building or rehabilitating homes on floodplains.

NOW, THEREFORE BE IT RESOLVED, that the Southwest Tribal Housing Alliance hereby requests Congress to sponsor federal legislation providing a tribal exemption to the requirements of the Federal Flood Disaster Protection Act of 1973, similar to the exemption available to states.

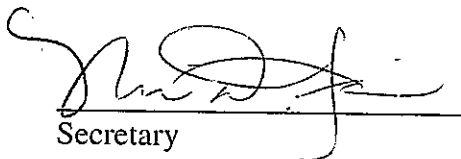
CERTIFICATION

The undersigned officials of the Southwest Tribal Housing Alliance do hereby certify that the foregoing Resolution No. 2019-01 was passed on January 29, 2019 at a duly called meeting at which a quorum was present, with 18 voting for, 0 voting against, and 0 abstaining.



President

ATTEST:



Secretary