



JOHN D'AGOSTINI
SHERIFF - CORONER - PUBLIC ADMINISTRATOR
COUNTY OF EL DORADO
STATE OF CALIFORNIA

October 19, 2021

Senator Diane Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Subject: 2017 FEMA Storm Event in El Dorado County, Rejected Reimbursement for Storm Repair Damages

Response to 2nd Appeal Net Small Project Overrun / Small Project Closeout request
FEMA-4308-DR-CA

Subgrantee: El Dorado County

Cal OES ID: 017-00000-00 FEMA ID: 017-99017-00

Dear Senator Feinstein,

El Dorado County has been denied on a second appeal submitted to the Federal Emergency Management Agency (FEMA) related to the 2017 FEMA-DR-4308-CA Storm Event (Presidential Disaster Date: April 1, 2017). The intent of this letter is to pursue support from your office to perform a formal review of FEMA's decision to deny El Dorado County's second appeal. An amount of \$686,650.51 in reimbursements was part of the aggregate submission of small projects filed with FEMA, as part of the Net Small Project Overrun (NSPO) process. In the applicable FEMA guide for the 2017 Storm Event, small projects can be defined as those less than \$123,100. Projects with a value greater than \$123,100 are considered large projects. As a result of the FEMA denial, these storm damage repairs are at risk of going unreimbursed by the funds set aside for the declared disaster.

The determination by FEMA not to reimburse the repair costs requested in the 2017 FEMA-DR-4308-CA NSPO was based on a 60-day regulatory requirement to submit the NSPO costs 60 days after the last small project repair was completed for the 2017 storm event. This determination, however, was made without consideration that El Dorado County had a project initially deemed a small project converted to a large project. El Dorado County was directed to work through the State of California Office of Emergency Services (CalOES) to coordinate the NSPO submission. In doing so, El Dorado County was instructed to refrain from filing our NSPO until we received a notice of obligation of funds, which would solidify the conclusion of FEMA's review. FEMA was conducting a review of a road repair that needed to be converted to a large project due to the scope changes needed to ultimately repair the damages. This FEMA review process was occurring as part of a project "versioning" that involves evaluation of the scope of work and reimbursement changes to a

repair project. Since it was directly related to the NSPO, the NSPO could not be formally filed until a determination could be made on the project "versioning" request. This project "versioning" request determination by FEMA was complete after the 60-day regulatory deadline, and although extensive coordination with CalOES occurred well in advance of the deadline, no recognition by FEMA was made of the project "versioning" or process.

As detailed in the attached CalOES letter dated January 27, 2021, and the County enclosed "Request for 2nd Appeal Net Small Project Overrun" letter, the repair costs requested in the DR 4308 NSPO should have been reimbursed as they were filed within the 60-day regulatory deadline based on the timeline "pause" when there is a scope of work (SOW) change. As detailed in the attached letters (and discussed in the "Timeliness" section of the CalOES letter, page 3 of 21, attached) this pause (or "for toll") is in effect when there is an SOW change underway within FEMA. Although extensive coordination and documentation was prepared and submitted to FEMA by both El Dorado County and CalOES regarding this item in both the 1st Appeal DR 4308 NSPO and the 2nd Appeal DR 4308 NSPO, no mention of the SOW changes or 60-day regulatory pause was made in the FEMA appeal rejection response (refer to the attached FEMA 2nd Appeal response letter). Unfortunately, the FEMA process and procedures do not allow for a response to a second appeal determination, even when FEMA errors were made.

The purpose of this letter is ultimately to request for assistance in the reimbursement of the FEMA 2017 storm damages that were part of the DR4308 NSPO not properly handled by FEMA during processing and closeout. These unreimbursed repair costs amount to \$686,650.51 and were the result of storm repairs to key infrastructure in the South Lake Tahoe and various El Dorado County areas. We understand that your schedule is full and this item may appear minor, but the efforts and investments made to properly follow the process, and the proactive measures to coordinate repairs in advance should have resulted in a different outcome.

Please review the information, and if you have any questions, or need any further details, please contact us. Thank you for all your help.

Sincerely,

El Dorado County Director of Transportation,
Rafael Martinez

El Dorado County Sheriff and
Director of Office of Emergency Services,
John D'Agostini

Attachments:

- CalOES Letter dated January 27, 2021 (“Second Appeal – NSPO”), includes El Dorado County 2nd Appeal Letter dated December 3, 2020 as an enclosure
- FEMA letter dated May 3, 2021 (Second Appeal NSPO Response Letter)

Additional details regarding the DR 4308 NSPO (including the 1st Appeal) can be made available upon request

- c. Senator Alex Padilla
Representative McClintock