

STATEMENT OF FEDERAL HIGHWAY ADMINISTRATOR, RAY A. BARNHART
BEFORE THE SUBCOMMITTEE ON TRANSPORTATION
OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
UNITED STATES SENATE,
CONCERNING HIGHWAY EMERGENCY RELIEF
July 21, 1983

Mr. Chairman, Members of the Committee, I am pleased to be here to discuss the Federal-Aid Highway Emergency Relief (ER) Program. I will describe the ER Program, discuss the winter storm damages in California between January and March of this year, discuss damages in Utah in April and May of 1983, address the questions in your letter of June 30, 1983, and discuss the provisions of S. 1354 and H.R. 3103, ER bills presently before this Committee.

At the outset, let me say that the Administration supports the purposes of the legislation only if the Federal share is changed from 100 percent to 75 percent.

The ER Program is a special program to provide Federal assistance to State, local, and Federal road authorities for the repair of roads and bridges on the Federal-aid highway systems. To qualify for this assistance, the road or bridge must have been damaged as a result of a widespread natural disaster or have failed catastrophically as a result of some external cause. Failures resulting from pre-existing conditions, physical deterioration, errors in design and the like are not covered under this program. Basically, the ER Program provides assistance to correct failures caused by unanticipated external forces beyond the control of road authorities.

Emergency funds for disaster-damaged roads have been provided since 1934. The present ER Program was codified in section 125 of title 23, United States Code, in 1958. One hundred million dollars (\$100,000,000) per year is

authorized for this program with a limit of \$30,000,000 per disaster for any given State. The Federal pro-rata share for eligible work is 100 percent. Funds remain available for expenditure during the fiscal year authorized plus the next 2 years.

When a natural disaster or catastrophic failure occurs, the Governor of a State may, by appropriate proclamation, declare an emergency. In some situations, the President may also, at the Governor's request, declare a natural disaster or emergency. A presidential declaration allows the use of several Federal relief programs. In cases not involving a presidential declaration, the Federal Highway Administrator may concur in the Governor's proclamation and authorize use of the Federal-Aid Highway ER Program.

Once an emergency situation is declared, the State may notify the Federal Highway Administration (FHWA) of its intent to request ER funding to repair damage to Federal-aid highway system roads. Upon receipt of this request, we immediately authorize the State to proceed with emergency repairs to minimize damage, protect facilities or restore essential traffic. Federal-aid highway funding participation in this temporary emergency work, as well as any subsequent permanent repair work, is contingent upon a subsequent determination that the damage and repair work qualify under the provisions of section 125.

The FHWA field office in a State works closely with the State and local highway authorities in evaluating damage and determining what must be done and what work is eligible for our participation. Our field office prepares a field report of the emergency conditions as soon as possible and forwards the report along with recommendations to the Federal Highway Administrator. The field report is promptly acted upon by the Administrator who notifies the Governor of

ER funding eligibility. Upon a positive finding by the Administrator, the FHWA Division Administrator works with the State highway agency in developing and implementing specific repair projects in accordance with established procedures and within the limits of funding availability.

CALIFORNIA DISASTERS

The magnitude and extent of the damage to the Federal-aid highway system between January and March 1983 in California due to the series of winter storms is still being evaluated by both the State and FHWA personnel. It is clear that the amount of damage to Federal-aid and Federal roads far exceeds the statutory limit of \$30,000,000. Twenty-seven million dollars (\$27,000,000) has been allocated to the State for damage repairs on Federal-aid system roads. Another \$3 million has been reserved for allocation to Federal agencies to cover emergency repairs on Federal lands highways.

Our current estimates for California's Federal-aid roads is \$77.5 million plus \$10.1 million for Federal roads for a total of \$87.6 million. This does not include the Devil's Slide area on Route 1 which could add about \$50 million making the total about \$138 million.

UTAH DISASTERS

Eligible work in Utah caused by flooding during April and May 1983 exceeds the \$30,000,000 statutory limit as it does in California. To restore Federal-aid highway facilities damaged by a massive landslide in Spanish Fork Canyon, an estimated \$41 million is needed. Twenty-two million five hundred thousand dollars (\$22,500,000) has already been allocated. An additional \$43

million will be needed to repair damage on Federal-aid highways in other parts of the State. This does not include eligible damage to roads on Federal land where the repair estimate is \$11.5 million. The total estimated damage in Utah from the April and May disasters is \$95.5 million.

ESTIMATES OF NEEDED ER FUNDS

During FY 1983 to date, we have approved funding for or have identified the potential cost of eligible disasters in the amount of approximately \$301 million. This includes both disasters from past years and new disasters which have occurred during this fiscal year. It also includes amounts in California and Utah in excess of the \$30 million ceiling. This total does not include the Devil's Slide area of California which is estimated at about \$50 million. We presently estimate that we will obligate this fiscal year approximately \$170 million of the \$171.4 million currently available. This would leave an unfunded balance of current needs of approximately \$131 million or \$181 million if Devil's Slide is included. We can expect additional disaster funding demands during the last 3 months of this fiscal year due to additional snow melt, flooding and unforeseen events. Therefore, it is entirely possible that we could enter FY 1984 with an unfunded balance of disaster needs approaching \$200 million.

Due to the uncertain nature of this program, estimating future year funding needs is highly speculative at best. Nevertheless, we estimate ER funding needs to cover expected obligations are \$200 million for FY 1984, \$150 million for FY 1985 and \$100 million for FY 1986 based upon a Federal participation of 100 percent.

THE \$30 MILLION CEILING

On balance, we would not recommend removing the \$30 million cap across the board. The cap has ensured that the \$100 million annual authorization is not diverted to calamitous disasters in one or two States at the expense of other States. The recent California and Utah disasters bear witness to what could happen to the ER fund if there were no constraint. If there were no cap these two disasters would consume most of the available funding over at least a two year period. While their needs are great, as a matter of equity it is inappropriate to neglect other States with severe disaster damage, but of a lesser magnitude. The \$30 million cap ensures a more equitable distribution of funds and requires Congressional oversight on major disaster funding needs which exceed it. In this regard, we support statutory language to permit additional funding specifically for these disasters in California and Utah but we urge that the cap not be generally lifted. We believe that the Congress should establish the precedent that funding in excess of the \$30 million cap should be granted on a case-by-case basis, and even then, only by statute. We do not support any emergency relief legislation which does not establish a State matching share of 25 percent.

THE STATE MATCHING SHARE

While current law provides a 100 percent Federal share for ER we believe that States should be required to provide a matching share. A State's management of Federal funds improves when the State must commit its own funds as well as Federal funds to a project or a program of projects. Our recommended Federal share on ER projects is 75 percent on other than Federal

owned roads. This would not reduce the funds available to any State, but would insure that the funds are available to fund more projects. This 75 percent share would be the same percentage as that provided by the Federal Emergency Management Agency (FEMA) for other types of disaster relief projects.

DISASTER DEFINITION

The present definition of a "natural disaster over a wide area" includes landslides as one example of a natural disaster which causes damage over a wide area. Landslides seldom, if ever, cause damage over a wide area. Landslides should be removed as an example of a natural disaster in subsection (a) of Section 125, United States Code. The examples of floods, hurricanes, tidal waves, earthquakes, and severe storms should be retained. The FHWA prefers to limit positive findings of natural disasters to those disasters over a wide area.

If an individual landslide extending to the traveled way is to be deemed eligible for ER funds, it should be justified as a catastrophic failure on a case by case basis. A slide in a slide prone area should not be eligible unless very significantly accelerated by highly unusual external forces. Regular eligibility findings of routine individual slides will substantially increase the demand on limited ER funds. The correction of unstable pre-existing slide conditions, for the most part, should be financed by regular highway funds.

S. 1354 AND H.R. 3103

Two bills dealing with ER, S. 1354 and H.R. 3103, are presently before

this committee. As H.R. 3103 contains the provisions of S. 1354, I will discuss H.R. 3103.

The bill would increase the fiscal year 1983 authorization for ER from \$100,000,000 to \$250,000,000, extend ER eligibility to the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands; limit the obligations for projects in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands to \$5,000,000 in the aggregate; and provide that the limitation on expenditures per disaster in a State and the limitation on expenditures per fiscal year in the territories shall not apply to the additional \$150,000,000 authorized for fiscal year 1983.

We do not support any emergency relief legislation that does not reduce the Federal matching share from 100 percent to 75 percent. With a 100 percent Federal share, the States have no incentive to use funds available from other sources that require a State matching share or to manage ER funds effectively. Any support we give to H.R. 3103 is contingent upon the establishment of a Federal share of 75 percent.

As a technical matter an effective date should be established for extending coverage to the territories. An effective date of April 15, 1983, would cover a disaster that occurred in the territories during this fiscal year.

We would prefer to lift the \$30 million cap specifically for the California and Utah disasters rather than exempting the \$150 million increase from the cap.

We support the increase in ER authorizations for fiscal year 1983 subject to reducing the Federal share. Under current law, the additional \$150,000,000 is needed. Estimates to repair ER-eligible damage from the January 21 - March 30 storms in one State alone, California, approach this figure if the Devil's Slide area is included. Excluding these storms, allocations for ER-eligible damages in other States during disaster-intensive FY 1983 have already exceeded \$100 million and are expected to increase substantially. Costs to repair ER-eligible damages from an April landslide in Thistle, Utah, are expected to exceed the \$30 million limit that the Surface Transportation Assistance Act of 1982 placed on a single disaster in any State. Barring any additional major disasters, the \$150,000,000 should be adequate to cover the unusual disaster conditions which have occurred this year.

We also support extending ER eligibility to the territories subject to reducing the Federal share. We see no logic in excluding the territories from ER benefits. Making the territories eligible for emergency relief funding will provide coverage to the recently created Federal-aid primary road system and the Federal land roads in each territory. These roads are not presently covered by the emergency relief program. We do think, considering the uncertainty of disaster needs, that the limit on territorial emergency relief is too low. We support a limit of \$5,000,000 per fiscal year per individual territory.

The bill would make the Devil's Slide on State highway route 1 in San Mateo, California, which was destroyed in fiscal year 1983, eligible for emergency relief. Although regular Federal-aid funds would normally be used to correct problems created by long-active slides, due to the severity of this

occurrence, this Department would not oppose ER eligibility extension. The bill would also extend emergency relief eligibility to a \$2,000,000 project in Carencro, Louisiana. The Department believes that the Louisiana project should be handled with regular Federal-aid funds. The project is not related to a natural disaster or to a catastrophic failure from an external cause.

As a courtesy to this committee, we are providing draft language which we provided to the House Public Works and Transportation Committee, at their request, to correct a technical error in the Surface Transportation Assistance Act of 1982. The language would amend the ER provisions of title 23, United States Code. However, we do not believe technical amendments are necessary and do not support any at this time.

That concludes my statement. I would be happy to respond to your questions.

TECHNICAL AMENDMENT

Section _____ (a) The first sentence of subsection (f) of section 120 of title 23, United States Code, is amended by replacing the colon after the word "thereof" with a period and by striking the rest of the sentence.

(b) Subsection (b) of section 125 of title 23, United States Code, is amended by striking "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors," and inserting in lieu thereof "the Federal-aid highway systems, including the Interstate System" in the two places the stricken words appear.

(c) Subsection (c) of section 125 of title 23, United States Code, is amended by striking "routes functionally classified as arterials or major collectors" and inserting in lieu thereof "on any of the Federal-aid highway systems".

ANALYSIS, TECHNICAL AMENDMENT

Subsection (a) would strike superfluous language in 23 U.S.C. 120(f). Subsections (b) and (c) would replace language that was inadvertently added by the Surface Transportation Assistance Act of 1982 with the original language.