



BROKEN ROADS & BROKEN PROMISES

WHEN RURAL COMMUNITIES FIGHT FOR FEDERAL ASSISTANCE



INTRODUCTION: WHEN THE ROAD TO RECOVERY CRUMBLES

In early 2023, a rural farming county in California's Central Valley watched its backroads buckle under severe floods. Pavement that was fully passable one week prior exhibited cracking and subsidence following the recession of floodwaters. Farmers, school bus drivers, and emergency crews all knew these roads had been passable before the storm. Yet when the county applied for FEMA Public Assistance (PA) funds to fix their storm-damaged roads, they hit an unexpected roadblock. FEMA denied the funding, reasoning that there wasn't enough proof that the disaster caused the damage, as opposed to long-term wear and tear. **The catch?** FEMA wanted **"before"** photos of the road to show it had no major cracks prior to the flood - an almost impossible ask for a remote country lane that no one would photograph in its intact state. This frustrating saga highlights a growing disconnect between FEMA's rules and the reality on rural roads after disasters.



FEMA'S ELIGIBILITY GAUNTLET: RULES VS. REALITY



FEMA's Public Assistance program is governed by strict rules intended to ensure taxpayer funds only pay for damage directly caused by a disaster - not pre-existing issues or poor upkeep. In theory, that makes sense. But in practice, proving that a disaster directly caused the damage can feel like running an evidentiary gauntlet, especially for rural communities. FEMA's guidance explicitly states that applicants must demonstrate the reported damage was indeed caused by the disaster and not the result of deterioration or deferred maintenance. If damage looks like something that happens over time (e.g. **potholes or "alligator" cracking in pavement**), FEMA by default deems it ineligible, since "this type of damage is rarely caused directly by one incident". In other words, the burden is on the applicant to prove the road was in good condition before the event and that the disaster is what broke it. Without compelling evidence, the answer is often **"no."** This approach leaves many rural officials feeling like they're guilty until proven innocent when they seek aid for infrastructure repairs.



THE IMPOSSIBLE "BEFORE" PHOTO STANDARD



A key issue with FEMA's documentation requirements is the expectation for both pre- and post-disaster photos or videos to prove road conditions. While this seems reasonable, it's unrealistic for rural or low-traffic roads, which are rarely photographed unless by chance.

In the intricate case unfolding in the Central Valley county, FEMA officials imposed stringent requirements on local administrators, insisting on concrete evidence that the roads ravaged by flooding were previously in sound condition, devoid of any defects. This proof came in the form of dated photographs taken before the disaster struck. However, the county found itself at a disadvantage, lacking this crucial visual documentation. Instead, they leaned on a collection of maintenance logs, supportive statements from dedicated staff members, and a comprehensive engineering report that confirmed the devastation had been caused by the floodwaters.

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Despite the county's earnest efforts to present this alternative evidence, FEMA remained skeptical. The agency dismissed the information provided, attributing the damage to a history of long-term neglect rather than the unprecedented flooding event. Without the photographs to substantiate their claims, the county's request for federal aid regrettably met a dead end, leaving them without the crucial support they desperately needed to recover from the disaster.



Although FEMA policies don't explicitly require photos, in practice applicants must present clear evidence—often photos or videos—to prove disaster causation; otherwise, damage is attributed to pre-existing conditions. FEMA encourages proactive visual documentation, but small rural governments typically lack the resources to routinely record road conditions. Consequently, when disasters occur, these communities often cannot meet FEMA's evidence requirements even though local knowledge points to disaster-induced damage.





WHERE POLICY COLLIDES WITH REALITY ON RURAL ROADS



The disconnect here is that rural America's roads operate under a very different reality than urban infrastructure. Consider a couple of stark contrasts:

- 📌 **Miles vs. Records:** Rural areas account for a huge share of U.S. road mileage - about 68% of America's road miles are in rural areas - yet rural county road departments run on thin budgets with minimal asset management systems. A big city might have a database of street condition surveys and archives of road inspections. A small county highway department? They likely have a crew that "knows by





heart” which roads were graded or patched recently, but no formal documentation or photos unless something notable happened. Not having a glossy pre-disaster condition report doesn’t automatically mean the road was neglected; it often just means the community lacks the resources and records that larger jurisdictions take for granted.

- **Hidden Damage is Real:** In flood events, the worst damage is often subsurface. When floodwaters inundate a road, the pavement might not crumble immediately. The water weakens the road base – essentially turning the soil or gravel under the asphalt into soup. The road surface looks intact once the water recedes, so at first everyone thinks it survived. Then you send a heavy fire truck or farm tractor over it and **WHAM** – the surface cracks, sinks, or even collapses. This might happen days or weeks after the flood, once heavy vehicles start using the road again. To local officials and engineers, it’s obvious the flood



caused this failure. But to FEMA inspectors arriving later and seeing “alligator” cracks and ruts, it just looks like ordinary wear and tear. FEMA’s policies weren’t fully written with this kind of delayed failure mechanism in mind, or at least not with much leniency for it. The agency tends to evaluate each road segment’s damage in isolation, rather than seeing the bigger picture – for example, that *dozens* of roads in the flooded area all started falling apart soon after the disaster. That pattern tells a story that one road alone might not.

A striking example of policy-vs-reality dynamics comes from after Hurricane Zeta (2020). A coastal city in Mississippi discovered that hundreds of wooden pilings under its harbor piers had been structurally compromised by the storm. Above the water, most of the pilings still *looked* okay, but acoustic tests showed internal loss of material in the wood below the waterline. FEMA’s response? They agreed to pay to replace 37 pilings that were visibly broken or leaning, and not a penny for the other ~1,300 piles – because there was no pre-storm test data to prove those weren’t already deteriorated. In FEMA’s view, without a pre-disaster

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baseline to compare against, the widespread hidden damage could not be conclusively attributed to the hurricane. In fact, when the city appealed, FEMA's own appeals board noted the city "has no baseline" showing the pre-storm condition of each piling, and thus "failed to establish that Hurricane Zeta, as opposed to the cumulative effect of age and past events, caused the alleged failure of 90.5% of the pilings". In other words, under FEMA's rules it was impossible to claim the full extent of damage without prior data - leaving the city on the hook to replace the vast majority of those compromised pilings at its own expense. This illustrates the same logic in a different setting: if you can't prove your infrastructure was pristine beforehand, FEMA may only cover the most obvious, physically evident damage - even if, deeper down, a catastrophe has occurred.



YOUR RECOVERY IS OUR PRIORITY





NOT JUST ONE COUNTY'S STRUGGLE - A WIDESPREAD PATTERN



If this documentation burden were just a one-off fluke, it might be shrugged off. But across the country (and even beyond the mainland), many communities have faced similar uphill battles on road repairs after disasters. An eye-opening case emerged in the aftermath of the 2017 hurricanes in the U.S. Virgin Islands. Years after Hurricanes Irma and Maria, Virgin Islands officials revealed that FEMA had deemed a whopping 80% of the territory's storm-damaged roads ineligible for funding. Why? FEMA determined that, in its view, most of those road damages were "pre-existing" issues - effectively blaming lack of maintenance - and cited a lack of maintenance records as justification.



At a public hearing, the islands' Office of Disaster Recovery Director testified that FEMA was requiring extremely specific maintenance documentation for each road, which she and her advisors found unprecedented. They even showed FEMA video footage of torrents of rainwater ripping up the roads during the hurricanes. Yet, as one recovery consultant recounted, *"We showed them videos of water coming down the hills and they [FEMA] are saying if the roads were properly maintained they could not have suffered damage,"* calling that stance ridiculous. FEMA argued that better

road conditions would have prevented the flood damage, a point dismissed by local experts. Lawmakers in the Virgin Islands accused FEMA of unfairly penalizing the territory, with one senator suggesting the scrutiny seemed discriminatory.

The Virgin Islands story underscores that the documentation hurdle isn't just a mainland rural issue - it hits anywhere the infrastructure is older or records are sparse. Small towns, counties, tribal lands, island communities - all often manage vast networks of roads with shoestring budgets and minimal record-keeping. They simply do not have "before the disaster" photos sitting in a file for each culvert and country lane. As a result, when a disaster strikes, these communities start at a disadvantage in FEMA's eyes.

The pattern that emerges is a procedural tilt: if you're a well-resourced jurisdiction with detailed logs, surveys, and imagery, you can more readily satisfy FEMA's strict proof requirements. If you're not, you may feel FEMA is assuming your damage is your own fault (i.e. deferred maintenance) unless you can prove otherwise with evidence you never thought to collect. That perception - **guilty until proven innocent** - erodes trust in federal recovery programs and can even discourage underserved communities from seeking help in the first place.

To be clear, nobody is arguing that FEMA should write blank checks for road fixes





that were long overdue. The concern is about genuinely disaster-caused damage slipping through the cracks (no pun intended) because of documentation technicalities. Rural counties maintain thousands of miles of farm-to-market roads that may not be perfect, but they're serviceable and safe - until a disaster undermines them. Those counties often lack the fancy data to conclusively prove the disaster was the culprit. But on the ground, it's usually obvious to Residents what happened and when. The real challenge is translating that local reality into FEMA's required evidence.

"SPENDING DOLLARS TO CHASE PENNIES"



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Another harsh reality for small applicants is the cost and effort required to navigate FEMA's appeals process when a project is denied. When FEMA initially says "no" on a road repair project, an applicant can gather more evidence and file a first appeal, and if that fails, even a second appeal. In our California county's case (and many others), this turned into a massive homework assignment: hiring engineers to do core samples or geotechnical studies, compiling sworn affidavits from public works officials attesting to the road's pre-disaster condition, digging up years of maintenance logs, analyzing historical budget data to show that the recent damage far exceeds normal wear, and so on. This back-and-forth can drag on for months or years.



All that work costs money - often tens of thousands in engineering and consulting fees - and it consumes precious staff hours for the local government. FEMA does provide some reimbursement for administrative costs (Category Z in the PA program), but it's capped at around 5% of the total project award. That 5% might be fine for a straightforward small project, but for a complex claim mired in technical appeals, it's woefully inadequate. Many communities find that by the time they've "proven" their case, they've spent more on experts and overtime than the value of the repair grant they were fighting for. They end up literally spending dollars to chase pennies of reimbursement.

For example, if a county is seeking \$200,000 to fix a washed-out rural road, the max they might get for administrative/management costs is about \$10,000. That \$10k vanishes quickly once you commission a geotechnical study, hold multiple site visits and meetings, and prepare detailed appeal documentation. Any additional costs - and there are often plenty - come out of the county's pocket. It creates a lose-lose dilemma: either swallow the costs of proving your



case (which can approach the cost of the repair itself), or swallow the cost of the repair because you give up on FEMA aid. Neither is a good option for budget-strapped local governments.

This inefficiency doesn't serve anyone. It frustrates applicants and also bogs down FEMA in lengthy appeals and paperwork. Recognizing these issues, Congress in 2018 gave applicants an alternative path: instead of enduring FEMA's slow second appeal process, they can take their case to an independent arbitration panel (the Civilian Board of Contract Appeals, or CBCA) for a faster, binding resolution. In several recent arbitration cases, independent judges have indeed overturned FEMA's ultra-strict interpretations. For instance, one arbitration panel applied a broader interpretation of what counts as disaster "damage" and found that a submerged roadway was eligible for a grant even though FEMA had contended that only roads rendered completely impassable should qualify. This pushed back on FEMA's narrow view of road damage. In another case, an arbitrator reversed FEMA's denial of repairs to a dam where FEMA had argued the applicant didn't document routine maintenance well enough; the board recognized that the disaster did in fact damage the dam despite the paperwork gaps. These examples show that when subjected to outside scrutiny, FEMA's stance doesn't always hold water. Still, small towns shouldn't have to lawyer up and go to arbitration just to get common-sense recovery aid for clearly disaster-damaged infrastructure.

HOW DO WE BRIDGE THE GAP?

Is there a way to ensure that FEMA remains accountable for its funding without subjecting rural and under-resourced communities to undue hardship? Many emergency management experts and local officials believe there is a path forward. Here are several innovative ideas that are gaining momentum, which might help reconcile FEMA's stringent regulations with the unique challenges faced by rural areas.



- Embrace Alternative Evidence:** If pre-disaster photos or formal inspections don't exist (as is often the case in small communities), FEMA could give more weight to other evidence of a road's prior condition. Maintenance logs, work order histories, and local road crew reports can collectively paint a picture of a road's upkeep. Expert evaluations and engineering analyses after the disaster can explain the failure mechanism (e.g. "the flood's high water table saturated the base and caused these cracks"). Affidavits from long-time public works employees might seem anecdotal, but those folks know their roads - their testimony that **"we graded this road last summer and it was fine until the flood"** should count for



something. Currently, FEMA's policy does acknowledge reviewing maintenance records or "whatever documentation is available" about a road's condition. In practice, however, the absence of pristine pre-event evidence often leads to a dead end. A more flexible approach would allow a mosaic of secondary evidence to collectively satisfy the cause-of-damage question, rather than hinging everything on photos that may not exist.

- ❖ **Context-Aware Damage Review:** Disasters are broad events, and damage patterns matter. Instead of evaluating each road segment in a vacuum, FEMA could weigh the context of the disaster's impact. If a region experienced widespread flooding and dozens

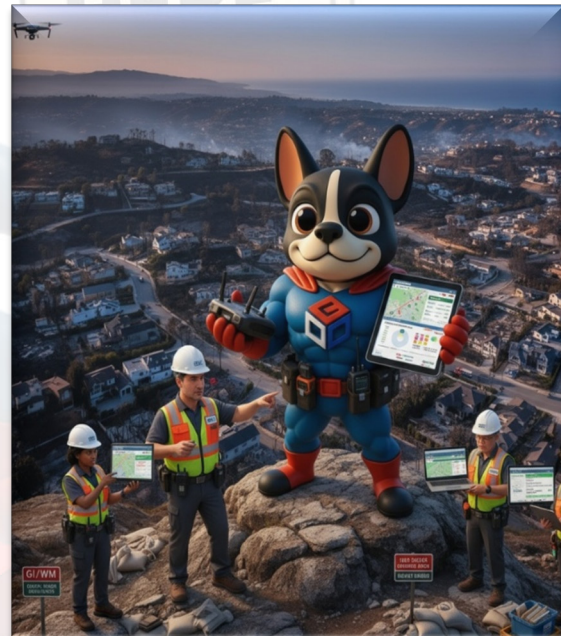


of roads failed around the same time, that pattern strongly indicates the disaster caused the damage. It shouldn't be necessary for each individual road to have a timestamped "before" picture to be considered. Clustering failures after an event should shift the



presumption towards eligibility (unless there's clear evidence of pre-disaster issues). In the Virgin Islands example, the fact that so many roads were damaged post-hurricane should have been a clue that the hurricanes were to blame, not a sudden, coincidental failure of maintenance on 80% of the territory's roads. Recognizing broad disaster impacts - perhaps using weather data, flood depth maps, and other corroborating evidence - would lead to more equitable outcomes in rural areas.

- ❖ **Invest in Baseline Data for the Little Guys:** One proactive solution is to help rural and small jurisdictions document their infrastructure **before** disasters strike. This could be through grants or technical assistance to conduct periodic road surveys - for example, low-cost dashcam or drone video of critical routes, or leveraging satellite imagery (which is increasingly available and could provide "before" snapshots for even remote locations). Even a smartphone on a dashboard recording the road annually can establish a visual record. The point is to even the playing field so that when FEMA asks for pre-disaster evidence, the community actually has something to pull from the drawer. Some states have started pilot programs to catalog local infrastructure conditions, but a nationwide effort - especially targeting high-risk, low-resource areas - could save a lot of headaches (and money) when disasters occur. It's an upfront investment in data that could pay off in much smoother recoveries later.



- ❖ **Joint Assessments and Local Insight:** A promising approach to improving the damage assessment process is to formally integrate the expertise of local engineers and road supervisors alongside FEMA's inspectors. Rather than relying solely on a FEMA representative conducting assessments with a standardized checklist, a collaborative inspection model would bring together FEMA personnel and the county's road supervisor for an on-site, side-by-side evaluation. The local supervisor—often someone who travels these roads daily and possesses firsthand, historical knowledge—can provide valuable real-time insights, such as, "See this crack? I drive this road every week; I can confirm it was not present before the flood."

This process enables local experts to offer crucial insights into both the historical context and current state of construction practices, which is essential for FEMA in accurately assessing the causes of damage and associated risks in affected areas. By promoting an environment of open dialogue, this initiative transforms local knowledge into a proactive asset for damage



assessments, ultimately reducing potential disputes and expediting decision-making processes.

While it is imperative for FEMA to manage funds appropriately and avoid unintentionally subsidizing routine maintenance costs, there is an urgent need to update evidence standards. This is especially crucial for smaller jurisdictions that often grapple with limited resources and incomplete historical records. Previous reforms have demonstrated the benefits of expanding eligibility criteria and updating policies; however, practical implementation demands more adaptable approaches to evidence collection. This could include utilizing maintenance logs, expert opinions, and other informal documentation as acceptable forms of evidence.

Pilot programs that incorporate collaborative reviews and analyses are essential to further improving recovery efforts. These initiatives can significantly enhance the fairness, effectiveness, and trustworthiness of recovery operations, enabling valuable lessons to inform lasting reforms in disaster management practices. Such strategic enhancements not only improve the immediate response but also contribute to the resilience and preparedness of communities facing future challenges.

CONCLUSION: PAVING A FAIRER ROAD TO RECOVERY



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When a disaster strikes a rural county or tribal community, it shouldn't feel like the real disaster is the paperwork that follows. The current **"prove it or lose it"** approach to road damage - while well-intentioned to prevent waste - can border on absurd when applied without flexibility. After all, disasters don't check maintenance records before washing out a road, and our recovery programs shouldn't rigidly require that level of proof afterward at the expense of common sense. There's a balance to be struck between accountability and accessibility.

Rural and underserved communities aren't asking for a free pass; they acknowledge that routine maintenance is their responsibility. But when Mother Nature truly wrecks their infrastructure, they deserve a Public Assistance process that meets them where they are. By accepting alternative evidence, considering the context of widespread damage, helping build baseline data, and listening to local expertise during assessments, FEMA can uphold strong stewardship of federal funds while also leveling the playing field for those who don't have a photo album of every country road. It's about fairness and resilience: ensuring that whether a disaster hits a big-city boulevard or a dirt farm road, the path to rebuilding isn't blocked by red tape and unrealistic demands.

At the end of the day, a more balanced evidentiary framework will not only reduce frustration and appeals - it will build trust. Communities will be more inclined to engage with federal programs if they feel the process respects their on-the-ground reality. And FEMA will still get the assurances it needs that funds are spent on true disaster damage. It's a win-win. After all, the goal of disaster aid is to help Americans put their lives and infrastructure back together. The road to recovery should be as smooth as possible - not full of needless potholes.

