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REAUTHORIZATION OF THE NATIONAL FLOOD INSURANCE PROGRAM

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

ON

EXAMINING COMPREHENSIVE FLOOD INSURANCE REFORMS AND THE REAUTHORIZATION OF THE NATIONAL FLOOD INSURANCE PROGRAM

SEPTEMBER 22, 2010

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C O N T E N T S

WEDNESDAY, SEPTEMBER 22, 2010

WITNESSES

Additional Material Supplied for the Record

REAUTHORIZATION OF THE NATIONAL FLOOD INSURANCE PROGRAM

WEDNESDAY, SEPTEMBER 22, 2010

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 2:08 p.m., in room SD–538, Dirksen Senate Office Building, Hon. Christopher J. Dodd, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN CHRISTOPHER J. DODD

Chairman DODD. The Committee will come to order. Let me welcome all of our guests here in the—I was going to say we are almost awash in humanity here for this hearing. It is not quite a full room.

Senator Shelby will be here shortly. I gather from my good friend Jim Bunning that there has been a Republican Conference meeting, and Roger, you pointed out the same, so I presume they will be coming in, but we will get underway. I have got an opening statement to make, and Senator Bunning does. I think Senator Schumer, as well, wanted to make an opening statement when he comes, and we will get to you very quickly. In fact, if they don't come in, we will just go to Jim and I and then we will go right to you. I know you have got other issues. Senator Johnson, Tim, is here with us. Tim, thanks for being with us.

Let me start, if I can, and first of all, I welcome, as I said, everyone here this afternoon for the hearing on the reauthorization of the National Flood Insurance Program, NFIP. I want to thank Roger Wicker, our colleague from Mississippi. Roger has talked to me on the floor on numerous occasions about this issue, how important it is to his State. I promised him we would get a hearing on all of this. There is a lot of interest in the subject matter from a variety of different perspectives. I am very aware of the Mississippi perspective and their interest in the subject matter. I am sure Roger is going to talk about it and others are.

We actually passed a bill out of this Committee, I think last year, pretty overwhelmingly, and then it passed on the floor pretty overwhelmingly. The House didn't, and now the House has acted on a bill. I am not sure whether or not we are going to respond to that or not. So we are kind of each getting it done at different times, and unfortunately, not the same time, so this afternoon's hearing is an important one.

NFIP, the Flood Insurance Program, is a very important program, providing a range of benefits, as we all know, to deal with the often overlooked but serious threat, floods, that cause more damage and create more economic losses than any other type of natural disaster. It may come as a surprise for those who are not well versed in the subject matter, and while the topic may bring Hurricane Katrina's Gulf Coast devastation to mind, the truth is that floods can happen anywhere, and they do.

Parts of my own small State of Connecticut were ravaged by flooding this spring, and back in the 1950s, before a lot of flood control programs, the entire Naugatuck Valley, the central part of Connecticut where a lot of the early days of the Industrial Revolution occurred, the Naugatuck River overflowed and swamped one community after another all along that flood plain.

Flood insurance provides critical assistance to 5.5 million families and businesses, insurance to help them recover from flood damages and mitigation assistance to help them avoid damages in the future. It also provides a framework of responsible floodplain management, requiring safer, more environmentally sound development that limits Americans' flood risks. Together, these measures have saved taxpayer money by limiting the amount of emergency disaster assistance necessary in the wake of flood events.

Despite these many benefits, the program faces some serious challenges that threaten its ability to carry out its mission. The hearings before this Committee in previous Congresses revealed a number of issues in need of reform. Perhaps foremost is NFIP's financial condition, which threatens the program's long-term viability. Due to increased borrowing to pay claims for catastrophic disasters in 2005 and 2008, the Flood Insurance Program faces almost $19 billion in debt to the Treasury, a sum that isn't likely to ever be repaid. Subsidized rates for nearly 25 percent of policy holders do not reflect the actuarially sound rates sufficient to cover expected claims.

Another key issue is ensuring that citizens and the Federal Government understand their risks. Despite mandatory purchase requirements for properties in flood hazard areas, only about half of all property owners in those areas actually participate in the program, increasing their potential exposure to devastating losses.

On top of this, until recently, FEMA had been using outdated paper-based flood maps to assess risks. These and other concerns caused the GAO to place the program on its High-Risk List in 2006.

In the last Congress, Senator Shelby and I worked together on flood insurance reform legislation to put the National Flood Insurance Program on a stronger footing for the future. That bipartisan, fiscally responsible legislation would have provided comprehensive Flood Insurance Program reforms to address these pressing issues that I have raised and talked about this afternoon and would have reauthorized the program for 5 years. It would have relieved the Flood Insurance Program's debt while requiring actuarially sound premium rates.

We worked with Senator Jack Reed on the provisions to strengthen FEMA's mapping capabilities to inform citizens of their risks and actuarially set premium pricing. I know that Senator Reed was disappointed not to be here today, but is to be commended for his work on these provisions and improving the mapping provisions.

In recent years, we have heard a number of proposals to improve insurance options and delivery for so-called “multiperil” events such as those involving both wind and water, for example, and for lowering the cost of insuring against catastrophic natural disasters. Our legislation also called for the creation of a National Commission on Natural Catastrophic Risk Management and Insurance to provide expert recommendations to the Congress on these very complex topics.

In 2008, the Senate adopted this legislation by an overwhelming 92 to 6 vote on the floor of the Senate. Unfortunately, we did not reach agreement with the House. Since that time, the program has been operating under a series of shorter-term extensions. And while our comprehensive reauthorization discussions continue, I have been working with my colleagues to ensure that the program remains in force.

Last night, the Senate approved a 1-year extension of the Flood Insurance Program. A multiyear reform bill is preferable, obviously, to an extension, in my view. However, such an extension will, in my view, provide necessary program and market stability to homeowners, lenders, and insurers while the Congress further considers the next steps for the reform of the Flood Insurance Program.

The purpose of today’s hearing is to return to this discussion of comprehensive flood insurance reform, something all of us agree is absolutely essential. We are going to hear from our distinguished colleagues, and we have been joined by Senator Durbin, who has had a long interest in this subject matter, and I have talked with him about mapping issues. I mentioned already, Chuck, that you had some opening comments, and Senator Schumer and I had a conversation the other evening about a similar set of issues in New York. And I suspect we are going to hear from a growing number of constituencies about the mapping issues that I only initially heard from Dick Durbin, who raised the issue initially about Illinois, but obviously a growing problem across the country.

Before I turn to our panelists, Senator Shelby isn’t here, but Jim, why don’t I turn to you for a couple of opening comments you have, and then I will go to Senator Schumer. I will then go to you. I don’t know if you have any opening comments, Tim, but if not, then we will go to our two colleagues who are here.

STATEMENT OF SENATOR JIM BUNNING

Senator BUNNING. Mr. Chairman, thank you for holding the hearing.

One of my proudest accomplishments in the U.S. Senate was authorizing the 2004 law that reauthorized the National Flood Insurance Program. Senator Johnson was my Ranking Member at that time, and Senator Sarbanes was very important in getting that bill completed and through the U.S. Senate because he added some very, very significant things that gave those people that had a problem the right of appeal.

Chairman DODD. Yes.

Senator BUNNING. Now, it took us many years and many holds of people to get it done, but we finally got the Vice President of the United States and the head of FEMA held to get it done, and we thank you for your help.

We worked very hard, as you did with Senator Shelby, in a bipartisan way, including incentives for communities and homeowners to mitigate flood risk when properties have a history of serious and repeated flood damage, and we provided long-term certainty for the program for property owners, communities, and leaders. Thankfully, my bill ensured that the Flood Insurance Program was in place before the Katrina disaster hit.

Unfortunately, the law I wrote expired in September of 2008, and since then, as you said, Mr. Chairman, we have extended the program only for short periods of time, and with the latest extension of 1 year. But we need to get a permanent law in place, and that is why we are here today to listen to the suggestions of our colleagues in the Senate, and I want to make sure that we do this before we get out, because I want something to say before I leave this Congress at the end of the year, and I hope you do, too.

Chairman DODD. I do, too.

Senator BUNNING. So I look forward to the input of Senator Durbin and Senator Wicker and all of my colleagues on the Committee. Thank you.

Chairman DODD. Thank you very much.

Tim, do you have anything?

Senator JOHNSON. No, I will pass.

Chairman DODD. OK. Chuck Schumer.

STATEMENT OF SENATOR CHARLES E. SCHUMER

Senator SCHUMER. Thank you, and first, I want to thank you, Mr. Chairman, not only for holding this hearing, but for lending an understanding ear to the problems, numerous, that we have in New York. I want to thank Senator Shelby, Senator Bunning, and my colleagues Senator Durbin and Senator Wicker for testifying.

Now, National Flood Insurance is an important program that has impacted people all across the country. But as I have witnessed firsthand in my home State of New York, it is not without its flaws. As the Senate debates reforms to the program, it is important we examine the facts on the ground in places like Nassau County on Long Island and in Western and Central New York, as well.

Requiring homeowners in Flood Hazard Zones to purchase flood insurance is a necessary goal and one in which the Federal Government certainly has a role to play. But flood insurance is expensive for families, often very, very expensive. So we must do everything we can to ensure that as FEMA modernizes its flood maps, it is accurately assessing what areas are truly at risk of flooding.

Unfortunately, we are coming to find at home in New York that the various technologies used by FEMA to draw the flood maps are exhibiting real flaws and vulnerabilities to error, resulting in thousands and thousands of New Yorkers being required to purchase expensive new insurance even though they live in an area that hasn't seen a serious flood for over a century. Let me explain.

Flawed aerial and GIS survey data in places like Long Island have resulted in updated flood zones that have ensnared tens of thousands of residents who never planned or expected to have to pay for costly flood insurance. In the area of Valley Stream, for instance, in Nassau County, some 5,000 homeowners were added to a High Risk Flood Zone. Longtime residents of Valley Stream that have been through hurricanes and tropical storms dating back to the 1950s are shaking their heads in confusion and desperation, asking why Valley Stream, since they have never reported a drop of flooding.

Last week, I visited Valley Stream Village Hill to meet with local officials and community residents. They presented me with an artifact of the past, the Village Board meeting minutes after the devastating 1932 hurricane known as the Long Island Express. While the minutes highlighted some downed trees and wind damage, there wasn't a single report of flooding in areas now in the High Risk Flood Zone.

It has also been reported that more than 50 percent of the Long Island residents that have appealed FEMA's flood map determination have won. In other words, they proved that the mapping technology was inaccurate, but it cost them an arm and a leg to even have to appeal.

Alarmingly, even FEMA officials on the ground themselves have admitted that the mapping technology is flawed. This is one of the reasons I requested a GAO report in 2009 to assess the accuracy of the technology that FEMA deploys in its mapping, and I look forward to seeing GAO's results later this year.

I have personally witnessed the impact that these flawed flood maps have on people's lives. I have sat in the homes of New Yorkers in different parts of my State who are already struggling to tread water in these challenging economic times and now have the Government telling them they have to pay new insurance premiums in excess of $2,000 a year.

Mr. Chairman, I truly believe that before we go any further with the reauthorization of the Flood Insurance Program, we need to apply the brakes and fix these problems. I agree with the testimony of my friend and colleague, Senator Durbin, that we should work to pass a moratorium on the mandatory purchase requirement for 5 years until technological and implementation issues can be resolved. This will give affected homeowners ample notice and a thorough explanation of the mapping process and how it impacts their lives so they are not caught by surprise. I believe Congress should still offer residents in high-risk areas flood insurance and make them aware of potential risks, but we certainly should not mandate it before the new technology and data are proven accurate. This moratorium would give the Congress and FEMA more time to work out kinks in the mapping process and technology and ensure we implement the program in an accurate, effective, and responsive way.

In conclusion, Mr. Chairman, the House wisely, in my opinion, passed such a moratorium. Their flood insurance bill championed by my colleagues in the House, Representatives McCarthy and Maffei, both from parts of New York that have had trouble with flood zones, with the FEMA flood mapping, includes a 5-year delay followed by a 5-year phase-in of the flood insurance purchase requirement. I encourage the Senate to include the House-passed moratorium in the final flood insurance reauthorization bill, and Chairman Dodd, as I mentioned to you on the phone, I would like to work with you to see if we could pass such a moratorium in the Senate, where I believe there is rising support for such a policy. Thank you.

Chairman DODD. Senator, thank you very, very much.

We have been joined by Senator Tester from Montana. Thank you, Jon, for joining us. We are going to turn to our two colleagues for any comments, unless you had a quick opening comment, Jon, you wanted to make.

STATEMENT OF SENATOR JON TESTER

Senator TESTER. It will be ultra-quick. First of all, thanks to my two friends in the Senate for being here.

I think the Flood Insurance Program really falls into two areas, number one, affordability, and sustainability for the program. Both need to work. That is all. Thanks.

Chairman DODD. That is about a succinct a description of the hearing there ever was. I appreciate that.

Dick, we are delighted to have you before the Committee. I will have you testify and give us your comments, and then Roger, we will hear from you. I thank you both for being here.

STATEMENT OF RICHARD J. DURBIN, SENATOR FROM THE STATE OF ILLINOIS

Senator DURBIN. Thanks, Chairman Dodd and Members of the Committee. I might say to Senator Tester, that was very un-Senatorial of you.

[Laughter.]

Senator DURBIN. I think Senator Schumer, my colleague, has really summarized the State of New York's situation, comparable to my State of Illinois. I am from downstate, from an area of great rivers, Mississippi, Illinois, and others, born and raised in that area, and I have seen my share of flooding in the past. What came as kind of a surprise to us was in 2007, in came FEMA and informed us that they were about to take a new assessment of the levees and new floodplain mapping.

The first thing they did was said, we will do the Illinois side of the river first. We will get to Missouri later—the same watershed. Well, it created an economic dissonance, a disadvantage on the Illinois side that we were going to have ours mapped first and the cost imposed while those on the other side—well, we fixed that. Thank you for helping us fix that, Chairman Dodd. That provision at least applies to the entire watershed now. Wait until they have completed it until you move forward.

But the point that Senator Schumer made is one that is included in the House Reauthorization Act, which I hope we will consider. In this area, they took a look at all these levees by the Mississippi River and they said, yes, we need to repair them and make them better. So we will impose on our local residents a new sales tax and generate in the three counties affected $10 million a year to start repairing the levees. In 5 years, we will get it done. So it isn't as if they are walking away from the challenge. They are accepting the challenge and they are paying with local funds to do it. So we are suggesting at least while they are doing this construction, do not impose these new mandates on them. Give them this 5-year window to take the money raised locally with whatever we can bring in federally and do our best to upgrade the levees.

We estimate, as Senator Schumer said, this could cost $2,500 a year. Imagine hitting a family in the midst of recession with that kind of a bill, trying to hang on to their homes and now more than $200 a month in a new flood insurance requirement.

The second part of the bill, which Senator Schumer also alluded to, was in the second 5 years, let us phase it in. Now, I think that is a reasonable way to go. We have got self-help going on locally. We have got people committed to getting the job done and done right. And we are trying to phase it in in a reasonable, affordable way, I might way, Senator Tester, so that we ultimately have a sustainable program. But we can't drop this in a matter of months or even a year or two on everyone and say, take it or leave it. I think that is fundamentally unfair and unreasonable. Up to 30,000 new properties could be affected with this requirement for new flood insurance.

Now, I say to people who ask me in this region, if you can afford it, buy it. Buy it now. Protect yourself. Just as you have fire insurance, if you can afford it, buy it. It is smart advice, and if I owned a home in my area, I would do my best to buy it. Some people just can't. They can't afford it. And so that is what we are up against. We are trying to come up with a reasonable alternative that will take care of it.

I would just conclude by saying that I think that, in summary, your Committee's version of flood insurance—as you craft your Committee's version of flood insurance legislation, include language to achieve the following goals. Ensure FEMA updates flood maps on a watershed basis. Delay the effective date for mandatory purchase of flood insurance for areas that have been newly mapped in a floodplain. Phase in flood insurance rates for newly mapped areas over 5 years so we have got a window here where this is happening in a gradual way. Require FEMA, State, and local governments to undertake extraordinary outreach to homeowners so that they understand the real risk that could be involved here, the potential of it. And offer discounted rates to newly mapped properties to increase the number of homeowners who are into the habit and custom of buying flood insurance.

Thanks for the opportunity to address the Committee.

Chairman DODD. Thank you very much, Senator. I appreciate your efforts and your interest in the subject matter.

Senator Wicker, we welcome you to the Committee.

STATEMENT OF ROGER F. WICKER, SENATOR FROM THE STATE OF MISSISSIPPI

Senator WICKER. Thank you very much. Mr. Chairman, could I ask that my full statement be included in the record.

Chairman DODD. That is true on all statements and documentation and so forth that you would like the Committee to have, we will include in the record.

Senator WICKER. Thank you very much. I was reminded the other day by Al Goodman, the Mississippi State Floodplain Manager, that major flood disasters have often led to changes in the law. For example, Hurricane Agnes in 1972 resulted in the Flood Disaster Protection Act of 1973. Flooding on the Mississippi River in 1993 prompted the National Flood Insurance Reform Act of 1994. The Flood Insurance Reform Act of 2004 was influenced by Hurricanes Andrew and Isabel.

Unfortunately, 5 years after Hurricane Katrina, that major event has not prompted a reform in the law, and I would submit to this Committee that in order to talk about hurricane insurance, we have to talk about wind and water insurance. One of the best things Congress could do for the vast coastal areas of this country, not just my State of Mississippi but all of the Gulf Coast States, including the States represented on this panel, is to resolve the nuances associated with insuring against hurricanes, and that involves insuring against flood and wind.

For all practical purposes, private insurance coverage for wind damage is no longer available in the Gulf Coast area since Hurricane Katrina. Before the storm, the wind peril was typically insured by basic hazard insurance policies, with the exception of those living right on the beach. Today, in most of Coastal Mississippi, individuals have to purchase wind coverage through the State-run Wind Pool. State Wind Pools were originally designed to be the insurer of last resort. However, in recent years, State Wind Pools have unfortunately become the rule, not the exception.

Now, as you know, in 2008, I attempted to address this problem by offering an amendment that would have added wind coverage to the National Flood Insurance Program on a voluntary and actuarially sound basis. This multiperil concept has passed the House of Representatives but failed in the Senate.

I would simply point out to my colleagues, I still support the multiperil debate, although I understand the arguments against it. Let me emphasize that it would be voluntary and that the requirement would be that it be actuarially sound. If that resulted in the wind portion of the premiums being too high, then so be it, but that was what my amendment contained.

The major concern we have in Mississippi is that it takes two kinds of insurance to cover a hurricane, flood insurance through the NFIP and very expensive wind insurance through either the Wind Pool, or if you can get it, private coverage. After Hurricane Katrina, many property owners were forced to go to court to decide who was responsible for the damage, wind or water, even if they had all of the necessary insurance policies. Other property owners had not purchased flood insurance because they relied on Federal Zone Maps. When their property was damaged by storm, the wind insurance adjustors denied claims, ruling that the damage had been caused by water alone.

Now, I recently introduced the Coordination of Wind and Flood Perils Act. This legislation, S. 3672, addresses some of the lessons learned following the wind *versus* water dispute that occurred after Katrina. Individuals who had all of the appropriate insurance, wind and water policies, were in many instances caught in the middle and forced to go to court to watch the insurers fight among themselves before they could be indemnified for their loss.

The legislation I have introduced, S. 3672, would remove the property owner from this debate and put the burden where it belongs, on the insurers. The insurance industry already coordinates benefits for other types of losses. If there is a dispute under my legislation, the damages would be split evenly between the insurers so the property owner would be compensated in a timely manner. Then the insurers would appear before an arbitration panel and the panel's decision would be binding.

Now, Mr. Chairman and Members of the Committee, there are a few other lessons learned from Katrina and observations I would like to make about NFIP.

Number one, after Hurricane Katrina, we learned that flood hazard risk in many coastal areas of Mississippi and many parts of the country was not accurately reflected by FEMA's flood insurance maps. As a result, property owners outside the flood zones had no NFIP coverage. With only wind insurance coverage, these individuals were not properly insured for a hurricane. Since property owners rely heavily on this information, I hope Congress can work with FEMA to ensure that these maps are accurately updated for all residents.

Number two, FEMA and many banks do a poor job of enforcing the flood insurance requirement. Now, we have had testimony about this from Senator Schumer today, but under the Flood Disaster Protection Act of 1973, the purchase of flood insurance is mandatory in flood zones if the consumer is using a federally regulated lender. However, there is a breakdown with the enforcement of this requirement. According to CRS, at least eight Federal agencies are responsible for enforcing this requirement.

Recently, the Wharton School of the University of Pennsylvania surveyed insurance coverage among property owners impacted by flood in Vermont. The study revealed that 45 percent of the victims of the flood who were required to have insurance did not purchase it. With regard to private insurance, lenders do a much better job of enforcing insurance requirements. If a homeowner stops his payment, stops paying his premium, the bank will purchase insurance for him and bill the homeowner. The Chair himself today has pointed out that some 50 percent of the people who are required to have flood insurance somehow do not have flood insurance, and the Wharton study documents this, too. Regulators and lenders routinely fail to enforce the mandate enacted in the Flood Disaster Protection Act. I hope the Committee will further investigate this issue and report its findings. Why are hazard insurance requirements enforced so well by lenders and the flood insurance requirement enforced so poorly?

Of course, rates should be actuarially sound and meaningful. Premium reductions should be offered for mitigation improvements. I hope this Committee will study the work done by the Wharton School in this area. These scholars proposed linking NFIP policy to the mortgage, which would create a long-term insurance policy tied to the length of the mortgage and to the property itself. Having a long-term policy tied to the property is one way to limit NFIP cancellations. This proposal would also give meaningful premium reductions for mitigation improvements. If a property owner knows they can save money year after year by strengthening their homes above the building code requirements, they will have a powerful incentive to do so.

One final proposal that I would commend to this Committee is the Travelers Coastal Wind Zone Plan. This proposal would create an independent Federal commission to establish standards for the wind peril in coastal areas. The Travelers plan allowed insurance companies to purchase reinsurance from the Federal Government to cover losses resulting from extreme events. In addition, like the Wharton plan, the Travelers plan calls for meaningful premium reductions for property owners who mitigate by improving their homes.

I would simply summarize and say this, Mr. Chairman. There are many things here that are long-term that are going to take time. Two things ought to be fairly easy. There ought to be a way to figure out how to enforce the mandate for property insurance, and there ought to be a way to allow insurers to coordinate benefits. Those are two simple things that could be done relatively quickly, perhaps before the end of the year.

Earlier this year, the *Sun Herald,* a Mississippi Coast newspaper, wrote in an editorial, “Better protection for all Americans living within harm’s way of a hurricane would be Katrina’s greatest legacy.” I agree. Five years after Katrina, Congress still has an opportunity to make sure affordable wind and water coverage can be provided to the millions of Americans in coastal areas of our country.

Thank you, Mr. Chairman.

Chairman DODD. Thank you, Senator Wicker, very, very much. And let me thank you, Senator Durbin, as well.

I do not know if any of my colleagues have any questions for our two colleagues here. If not, we appreciate very much your testimony.

Dick, I thank you because you were the first one to bring up the whole mapping issue to me a couple years ago, I guess it was. And there are more and more Members doing so. You heard Senator Schumer talk about it in New York. But it is not just the two States. And so I appreciate that very, very much, and it is obviously an issue.

I am going to turn to Senator Shelby to make some opening comments.

Senator SHELBY. No, no. I do not want to interrupt that. I would just like for my opening statement to be made part of the record.

Chairman DODD. Absolutely.

Senator SHELBY. Then I will my turn.

Chairman DODD. OK. Very good.

Thank you both very, very much.

Let me introduce our panelists quickly here, panel two, and then we will ask them to make some brief opening comments, if they would. In fact, I will introduce all of them, panel two and panel three.

Our first witness in panel two is Ms. Orice Williams Brown. She is Director of the Office of Financial Markets and Community Investment at the U.S. Government Accountability Office. Ms. Brown has overseen the preparation of numerous reports on the financial and operational health of the National Flood Insurance Program, and we are very honored to have you, Ms. Brown, with us this afternoon.

Our third panel will include Ms. Sally McConkey. I hope I pronounced that correctly.

Ms. McCONKEY. Yes, Senator.

Chairman DODD. I did. Thank you. Ms, McConkey is a senior professional scientist at the Illinois Department of Natural Resources State Water Survey. She is also the current Vice Chair of the Association of State Floodplain Managers and will be testifying on behalf of that organization this afternoon.

Next we will hear from Mr. Nicholas D'Ambrosia—I hope I pronounced that correctly as well—who currently serves as the Vice President of Recruiting and Training for the Long & Foster real estate company, a very well known company. We all see Long & Foster signs everywhere. He is also the Vice Chair of the Maryland Real Estate Commission. Mr. D'Ambrosia is testifying on behalf of the National Association of Realtors.

And our final witness today will be Mr. Steve Ellis, who is Vice President of Programs at Taxpayers for Common Sense, where he oversees programs and serves as a media and legislative spokesperson. Mr. Ellis also served as a Coast Guard officer for 6 years, earning both the Coast Guard Commendation Medal and the Coast Guard Achievement Medal. And I am presuming by that you spent some time in New London, Connecticut. Is that correct?

Mr. ELLIS. Yes, Senator.

Chairman DODD. So you are going to claim some local interest I have in that. It is a great school, too. Anyway, we are delighted you are here. You know something about the water, obviously.

I welcome all of our witnesses and, Ms. Brown, we will begin with you. And let me just says on behalf of all of the witnesses, whatever documentation or supporting evidence you would like to have as part of this hearing record will be so included. And if you could try and keep your remarks down to about 5 minutes, I would appreciate it so we can get to some questions. Thank you.

STATEMENT OF ORICE WILLIAMS BROWN, DIRECTOR OF THE OFFICE OF FINANCIAL MARKETS AND COMMUNITY INVESTMENT, GOVERNMENT ACCOUNTABILITY OFFICE

Ms. WILLIAMS BROWN. Good afternoon. Chairman Dodd, Ranking Member Shelby, and Members of the Committee, I appreciate the opportunity to participate in today's hearing on the National Flood Insurance Program.

As you know, GAO placed NFIP on its high-risk list in March 2006, after the 2005 hurricane season exposed the potential magnitude of longstanding structural issues on the financial solvency of the program, and brought to the forefront a variety of operational and management challenges. FEMA continues to owe the U.S. Treasury $18.8 billion from these losses and interest expenses, which it is unlikely to be able to repay under the program's current design.

My statement today is based on GAO's past and ongoing work and focuses on NFIP's financial condition, its operational and management challenges, and possible actions that could be taken to address them. While the structural issues were well known, the management challenges have become more evident in the past several years. We have made recommendations addressing virtually every aspect of the program. For example, we have recommended that FEMA take action to improve NFIP's management of data quality, the rate-setting process, oversight of the insurers that sell flood insurance, the expense reimbursement process, its contractor oversight, and its claims processes.

While preliminary results of our ongoing review of FEMA's management reveal that many of these problems are ongoing, FEMA has for the first time begun to acknowledge that it faces a number of challenges and has displayed a willingness to engage in a dialog with GAO about them. While acknowledgment of a problem is an important first step, we also expect to see FEMA take actions necessary to meaningfully address these challenges.

We are currently completing a comprehensive review of NFIP that builds on our past work and plan to issue a report early next year. We hope this report will help provide a road map for identifying root causes and addressing many of these outstanding issues.

However, we also recognize that many of the challenges facing the program will require congressional action. Moreover, we understand that this is no small issue, given the complexities of the program and the often competing public policy goals, including having rates that accurately reflect risk, encouraging participation, and limiting cost to the taxpayer.

For example, while many premium rates for properties are subsidized by law and rate increases are capped for a number of reasons, including offsetting the cost of catastrophe relief, these decisions involve tradeoffs that have to be balanced with the goals of NFIP. Specifically, while mitigation is viewed as vital to limiting the Government's exposure, charging rates that do not reflect risk may hamper mitigation efforts by encouraging property owners to build in harm's way and not adequately mitigate. Moreover, the current NFIP structure increases the likelihood that the program will have to borrow from Treasury when losses exceed premiums collected, thereby exposing taxpayers to greater financial risk.

Part of this conversation must include a dialog about the appropriate role of Government in paying for losses from natural catastrophes, which in 90 percent of the cases include flooding. The other part deals with who should pay for losses; that is, Congress must decide how much of the cost associated with flooding the Government should pay *versus* property owners.

In closing, I would like to note that while the $18.8 billion that NFIP owes Treasury may not seem large by today's standards, it is significant compared to NFIP's annual premium revenue, which is just over $3.2 billion. This debt may also continue to grow unless Congress and FEMA take action to begin to address some of the program's operational and structural issues.

Finally, one option to maintain subsidies but improve the financial stability of NFIP would be to rate all policies at the full risk rate and to appropriate the subsidized amount to the program. This structural change would remove the financial burden on NFIP by making the subsidy explicit and make the actual flood risk more transparent to the property owner.

Thank you. This concludes my oral comments, and I am prepared to answer any questions.

Chairman DODD. That was excellent testimony. I really appreciate it. As you know, many of us up here have a great deal of respect for the GAO. They do great, great work, and I do not know if you ever get the kind of credit you deserve for the tremendous focus—you get to do what a lot of us would probably like to do, and that is, you get to focus on a subject matter and dedicate your professional lives to really understanding it fully. And you obviously do in this area, so we are very grateful to you for your work and that of your staff and others that have worked with you to produce not only your testimony today but your assessment and analysis.

You mentioned, obviously, a wide range of actuarial and managerial problems at NFIP, and we have all heard about them. We heard Senator Bunning going back to 2004 working on this issue, and Senator Shelby and I did last year, and the House has. We have just had a lot of interest. In every one of our States, as I pointed out earlier, this is the one subject matter that all of us, regardless of where you live, with the exception of—I am not even sure I should say probably Nevada. Maybe even out there at certain times of the year, it may be actually subject to the same kind of problems. But the problem is including an unfortunate but necessary step to cancel the program's debt, and that is one of the issues.

I wonder if you could give us a sense of what the most important steps might be to help to get the program on track toward financial soundness and off the high-risk list. And, second, GAO has been reviewing the Flood Insurance Program for a few years. What progress has FEMA made, in your view, if any, on implementing the GAO recommendations in recent years, particularly regarding their premium rate structure and ensuring that participating insurance companies are compensated at reasonable rates?

Ms. WILLIAMS BROWN. I will start with your first question dealing with getting off the high-risk list. FEMA has taken one of the important steps to start that process and to start a dialog, and that is, acknowledging that there are issues that need to be addressed and beginning to take steps and having a conversation internally as well as with the GAO about what they need to do.

There are a number of structural issues that we have highlighted, including oversight of the WYOs, contractor oversight, data quality issues, as well as the rate-setting process. So I think from FEMA's perspective they would need to address those issues. From a legislative perspective, it would involve dealing with the structural issue that really continues to impact the financial soundness of the program, and that has to do with subsidized rates.

Chairman DODD. Well, you have sort of answered the second question in a way. You heard Senator Durbin and Senator Schumer and others—and I do not want to put words in their mouths, but proposing a delay or a phased-in approach for setting insurance rates for homeowners in the new high-risk flood zones. Clearly, this is going to lessen the impact on these homeowners, and obviously at a time like that, I think all of us are very sympathetic. I think

Senator Durbin and Senator Schumer talked about a $2,500 tax or fee the people would be paying, and obviously at a time when you are trying to hold your families together financially, that 200 bucks a month can be devastating. So we understand that.

But there are downsides to such an approach. What might be the impact on the fund and the general taxpayer? Because everyone else ends up subsidizing this to some degree, so we are all paying for it, which is one of the things we have got to consider in all of this. It is not just the person who is in the floodplain but all of us because the subsidies are paid through tax dollars to support those efforts. Further, are there any unintended consequences for homeowners' perception of risk with such an approach in your view?

Ms. WILLIAMS BROWN. I would agree with all of the above. I think we have pointed out in our past work that the challenge with subsidized rates, it impacts not only the program but it does also give homeowners that live in high-risk areas a false sense of security. But there is a tradeoff that we have also acknowledged in our work, and that is, by increasing rates you also risk fewer people participating in the program, and that is something that has to be balanced.

One of the things that FEMA has attempted to do as they are remapping, they have a program, a grandfathering program, that allows a homeowner who currently lives in an area and they purchase flood insurance, if they are remapped into a higher-risk area, they have the possibility of retaining that lower-risk rate. And according to FEMA, their rationale for this is to balance the issue of someone had been living in an area, they had been complying with the standards for that particular zone, they are remapped and they are faced suddenly with the potential for higher insurance rates and allowing them to keep that lower rate.

So, you know, it creates a new set of subsidized properties, but that is the tension that they are trying to balance.

Chairman DODD. I am going to turn to Senator Shelby right away, but I wonder if you might comment—and maybe you did and I did not pick up on it in your testimony. Obviously, listening to Senator Schumer as well talk about the case in New York on Long Island where all of a sudden for the first time they are being mapped as being in a floodplain area where there is no—and I am relying on his testimony, no historical evidence they have ever had any problems, at least not within the historical memory of the community, and all of a sudden being drawn into a map. And I appreciate the fact that FEMA has done a much better job than was the previous case in the mapping, and I appreciate very much the work they are doing.

But I often get the impression that what—sort of get both sides of this question, sort of hedging in that I get the feeling that FEMA is kind of reaching maybe a little further—this is just a general observation on my part—to put areas more in a floodplain area to reduce the cost, increase the obligation of the homeowner in that area to pick up the cost. The other side, of course, wants just the opposite to happen in a sense. There seems to be a calling for some neutral observers here to help draw these maps in some ways so you can sort of at least have an opportunity to have some debate, because it is not a perfect science in these maps.

Do you have any comment on that?

Ms. WILLIAMS BROWN. The only comment that I can make is that in 2004, GAO looked at the mapping process and found issues at that time with the mapping process. FEMA did a midcourse adjustment so they really focused on true remapping and not just updating and digitizing outdated maps.

We are currently in the process of looking at the status of the map modernization effort, specifically looking at the quality of the maps that are being used, and also looking at the community outreach effort.

One issue based on our previous work, the remapping process really relies on a partnership between FEMA and the communities, and the communities have a role in some ways in driving the quality of the information that is collected that goes into the remapped areas. And one of the points that FEMA has made historically is that communities that invest lots of money in maps and good technology—North Carolina is one example—they tend to produce higher-quality topography information, and that is a key piece of information that goes into the mapping process.

So, you know, it is definitely a challenge, and as you say, it is that tension of communities do not want to be mapped into higher areas. And FEMA is looking for trying to make sure that they are capturing maps that accurately reflect the——

Chairman DODD. Well, it might be helpful—because I can just see this—Jim Bunning and I will be leaving, but I can see this is a growing issue.

Ms. WILLIAMS BROWN. Absolutely.

Chairman DODD. And you do not have to have a Ph.D. in political science to know that if you end up with what I would call the perfect storm of members coming here on behalf of their communities, just as Senator Schumer did on behalf of his and Senator Durbin on behalf of his, any effort to try and deal with this is going to collapse. And so we better understand this issue and get around it or figure out a way to resolve it in ways that do not end up sort of delaying what we must confront, and that is having a National Flood Insurance Program.

I do not expect this to be—it is not your job.

Ms. WILLIAMS BROWN. Absolutely.

Chairman DODD. I am using your presence here to make that point.

Senator Shelby.

Senator SHELBY. Thank you, Mr. Chairman.

I want to pick up on Senator Dodd's area of questions dealing with mapping. It seems to me that mapping is the key to an overall sound actuarial program. Without proper mapping and updated maps, where is the program going? Do you have a comment?

Ms. WILLIAMS BROWN. I would agree mapping is key. It is critical to the rate-setting process. They need accurate maps to appropriately determine risks to the program and set rates accordingly. So mapping is key.

Senator SHELBY. But isn't there evidence of what areas are subject to flooding? You know, historically, they have got maps on all this. Maybe they are not up-to-date, but there is evidence of where the tide comes in, you know, where it goes out, rivers, hurricane, whether it is on the east coast or it is on the gulf coast. There is data there if you can put it all together, and it looks like with all of the software that we have today, that that could be put together if there is the political will to do it.

Ms. WILLIAMS BROWN. I think, you know, the data is key, and coming up with really good topographic information to go into the mapping process is key. And the other challenge is the topography is constantly changing. Areas are being developed, erosion is taking place. So the mapping process really becomes a never-ending process. Maps are going to have to constantly be revisited and reevaluated.

Senator SHELBY. Well, once you get the basic mapping process up to speed—you know, we know things more than evolve. They change fast. But it would be a lot easier to build on layers of what you have. But we are not there yet, are we?

Ms. WILLIAMS BROWN. In terms of where they are with the mapping, I would say that the map modernization process is still very much underway in terms of where FEMA is. I think the current statistics that we have, FEMA tracks their progress generally by the percent of population covered and also the miles of streams covered. In our report on rate setting that we issued in 2009, we tracked the amount by effective maps that are in place, and I think as of 2008, 4 percent were effective maps, and the 90-plus percent really reflected maps that were in some stage of the process, but not finalized.

Senator SHELBY. But on mapping, in the area of mapping, would you say, again, that the key to having a meaningful, substantive, actuarially sound Flood Insurance Program, we have got to have mapping right?

Ms. WILLIAMS BROWN. Mapping definitely has to be part of it. The mapping has to be right.

Senator SHELBY. Without the mapping data, the program will always be suspect, to say the least.

Ms. WILLIAMS BROWN. It raises a question.

Senator SHELBY. That is right. It is my understanding that the National Flood Insurance Program's goal of fiscal solvency—Senator Dodd alluded to that—is defined as charging premiums that will generate enough revenue to cover a historical average loss year. How does the NFIP, the National Flood Insurance Program, rate-setting policy compare to that of private sector insurers? In other words, ma'am, how does the private sector definition of the term "actuarially sound" compare with the NFIP's, the National Flood Insurance Program's construct of generating enough premiums to cover "a historical average loss year"? Is there a disconnect here?

Ms. WILLIAMS BROWN. There is definitely a difference between the Flood Insurance Program and how private insurers operate. One has to do with the issue of NFIP operating on a cash-flow basis. That means that their goal is to bring in enough premiums to cover losses on a year-to-year basis, and they do not do any reserving. Private insurers——

Senator SHELBY. No reserve for the future?

Ms. WILLIAMS BROWN. No. And private insurers do not operate that way. Reserving is a key based on risk in the future. The National Flood Insurance Program also holds onto all of the risk that it is exposed to; that is, they do not reinsure. Private insurers commonly hold onto some portion of the risk that they are exposed to, but they reinsure the majority of the risks that they face.

And the other big difference is that the National Flood Insurance Program basically takes all comers to their program. So regardless of the risk level, if you want to purchase flood insurance and your community is participating in the Flood Insurance Program, you can get a flood insurance policy. Private insurance companies do not do that. They factor in risk, your loss history, and they use that information to determine whether or not they will underwrite a policy for you.

Senator SHELBY. Ms. Brown, Ms. Williams Brown, GAO, which you represent, highlighted in its ongoing work examining FEMA's management of the National Flood Insurance Program, FEMA does not have an effective system to manage flood insurance policy and claims data although investing roughly 7 years and $40 million on a new system whose development has been halted.

Why were the investments made in these critical operational systems subsequently halted? Was it because they were not doing the job, they were flawed at the outset or what? That is a lot of money and a lot of years.

Ms. WILLIAMS BROWN. Yes. The particular project in question was called NextGen, and this particular system was to replace their existing data management system. And they basically were unable to shut down the old system and rely on the new system. There were questions of quality, and there were questions of whether or not it actually was performing as intended.

Senator SHELBY. Ms. Brown, I know the Chairman has been generous with my time here, but to sum it up, would it be fair to say, one, this program is broken, it is not actuarially sound? It is not going to be actuarially sound unless we do massive reforms starting with mapping and getting into something that is actuarially sound.

Ms. WILLIAMS BROWN. Based on the work that we have ongoing, we believe that, yes, the program needs to face some structural overhaul. In terms of the operations of the program, there are significant improvements that need to be made, and we do acknowledge that FEMA, you know, in the 5 years that I have been working on it, I am for the first time seeing an acknowledgment that there are significant improvements that need to be made in the operation and management of the program.

Senator SHELBY. One last comment, if you would, Mr. Chairman. Some of my colleagues want to add wind damage to all of this. Have you seen some actuarial studies on what that could possibly cost the taxpayer?

Ms. WILLIAMS BROWN. We looked at the implications of adding wind to this program, and we found that there would be—that FEMA would face significant challenges given the current condition of the Flood Program.

Senator SHELBY. An astronomical problem.

Ms. WILLIAMS BROWN. Potentially.

Senator SHELBY. Sure. Thank you, Mr. Chairman.

Chairman DODD. Thank you very much.

Senator Tester.

Senator TESTER. Thank you, Mr. Chairman and Ranking Member Shelby. I am going to kind of follow on some of the same lines here.

The GAO has been really focused on the integrity of the National Flood Insurance Program. An integral component, as Senator Shelby has pointed out, is the accuracy and validity of the maps. In Montana, because the Army Corps has said they are not going to certify anymore, we have got some experience that FEMA and our Army Corps are not always on the same page, specifically as it results to the areas behind the levees. Have you examined ways for FEMA and the Army Corps to be able to work together better?

Ms. WILLIAMS BROWN. On this specific issue, no.

We have looked at other mitigation programs and have recommended that there be better interagency coordination. GAO has been mandated to do a study looking at an interagency task force that was supposed to be set up earlier this year. That includes FEMA, the Army Corps and USGS, to specifically deal with communities' challenges involving levees, and we are supposed to then go in and look at how that process is functioning and report on that on a periodic basis.

Senator TESTER. OK. Would that oversight look into—what do I want to say—the standards of which FEMA is requiring levees to be *versus* the standards by which Army Corps is, and determining if they are the same?

Ms. WILLIAMS BROWN. We have not started that body of work, but I would imagine yes.

Senator TESTER. OK. You talked a little bit in your previous answer about communities. Have you been able to determine whether FEMA has worked with communities to help mitigate the economic impact of the new maps?

Let me give an example. A town by the name of Miles City, southeastern Montana, was a third in a floodplain. The maps came back, and now two-thirds of the town is in a floodplain. That is a big hit, as other people have mentioned here this morning.

Have you been able to work with FEMA on ways to mitigate, and, if you have, what recommendations have you given them?

Ms. WILLIAMS BROWN. Well, the work that we currently have going on, looking at the mapping, one specific objective deals with outreach to the communities, but one program that FEMA currently put in place to try to deal with some of the economic impacts of being remapped is the grandfathering program. And we have looked at the grandfathering program, and the recommendation that we have made did not deal with how FEMA dealt with the communities, but it really had to do with how FEMA was managing that program internally in that they were not able to track how many communities were actually being grandfathered.

Senator TESTER. OK. I can give you lots of examples, and you know all these things, being in the position you are, but for example, if you are thrown into a floodplain your flood insurance rates tend to go through the roof. Is it within your purview or do you plan on making recommendations to FEMA in cases like that, how they can deal with communities in a way that does not drive families into bankruptcy?

Ms. WILLIAMS BROWN. The purposes of the grandfathering program is that if you are in the zone that you are in, if you are remapped into a higher risk zone, you are able to maintain that lower premium.

Senator TESTER. For how long?

Ms. WILLIAMS BROWN. It stays with the property.

Senator TESTER. Forever?

Ms. WILLIAMS BROWN. So it does not end, as long as——

Senator TESTER. It depends? If the ownership transfers, then it would transfer?

Ms. WILLIAMS BROWN. Yes.

Senator TESTER. OK. All right, thank you.

You had spoken in your opening statement about a report that you are working on, on the accuracy of FEMA's flood mapping efforts.

Ms. WILLIAMS BROWN. Yes.

Senator TESTER. I think we are all interested in that. Is there anything from that analysis you could share with us today?

Ms. WILLIAMS BROWN. I cannot. It should be issued the end of the year.

Senator TESTER. OK. Last, we talked a little bit about the private sector with Senator Shelby, and I was curious. Is the risk so great that the private sector will not touch this, or is there insurance available in the private sector that is affordable, outside of this?

Ms. WILLIAMS BROWN. Generally, the Flood Insurance Program is really it when it comes to flood insurance. There is some coverage available for properties that are valued above the $250,000 limit, and they want excess flood insurance coverage. We did find some cases that there is that type of coverage available.

Senator TESTER. And so you are talking about a basic policy that would be covered by NFIP and an additional policy that would be covered by the private sector.

Ms. WILLIAMS BROWN. Correct.

Senator TESTER. OK. Thank you very much.

Thank you, Mr. Chairman.

Chairman DODD. Thank you, Senator.

Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

Ms. Brown, in your testimony, you mentioned several ways in which some property owners are subsidizing other property owners in the Flood Insurance Program. Can you briefly list the different ways in which homeowners in risky areas can avoid paying premiums that truly reflect the actual risk that they have?

Ms. WILLIAMS BROWN. One would be to be a pre-FIRM property, meaning that the house was built——

Senator BUNNING. Grandfathered.

Ms. WILLIAMS BROWN. Grandfathered properties.

The other would be kind of the new generation of grandfathered properties. Those are homeowners who are living in communities, they have purchased a flood insurance property, their community is remapped into a higher risk zone, and they are able to retain that premium.

Senator BUNNING. For how long?

Ms. WILLIAMS BROWN. It stays with the property. There is not a limit currently.

Senator BUNNING. That is FEMA's present recommendations?

Ms. WILLIAMS BROWN. Well, that is FEMA's current policy.

Senator BUNNING. Interpretation?

Ms. WILLIAMS BROWN. Yes.

Senator BUNNING. All right. How would you grade the bill the Senate passed in the last Congress and the bill that recently passed the House in terms of improving the relationships between the premium property owners pay and their actual risk?

Ms. WILLIAMS BROWN. Well, we note——

Chairman DODD. I am listening very carefully. Go ahead.

Senator BUNNING. Yes, I hope so.

[Laughter.]

Ms. WILLIAMS BROWN. We note that both of them would address the issue of some sort of phase-in for the pre-FIRM, or the originally grandfathered, properties.

We also have looked at the house version in terms of recommendations that we made and how it would address those. One example has to do with properties that are subject to wind and flood damage, and this would give FEMA access to the wind file as well as the flood file, which is something that we had recommended.

Senator BUNNING. Are you telling me that GAO would recommend that wind——

Ms. WILLIAMS BROWN. No.

Senator BUNNING. ——and water go together?

Ms. WILLIAMS BROWN. No, no, no.

Senator BUNNING. Please do not tell us that.

Ms. WILLIAMS BROWN. No, no. What we recommended, we looked at the issue of wind *versus* water, post-Katrina, and we found that for adjusters that do a flood adjustment they get no information about whether or not the private insurance company paid anything on a wind claim, and they had no information or access to the information on the possible wind portion.

Senator BUNNING. Ms. Brown, do you have any indication that FEMA has taken seriously GAO's recommendation to do more detailed risk rating within an area, within a certain area, like Long Island?

Ms. WILLIAMS BROWN. We have made a number of recommendations, and as of our most recent kind of broad-based conversation with FEMA we have roughly 30 recommendations that remain open. All of our recommendations dealing with rate-setting continue to be open recommendations.

Senator BUNNING. Somebody already asked you the question about actual flood maps, so I will proceed to the next one. Your testimony discussed a growing trend of Write-Your-Own companies who managed a flood policy for the Government keeping more and more of the claim payments that are supposed to go to property owners, despite the fact that the companies bear no risk of loss themselves. In your opinion, has FEMA taken this issue seriously or made any attempt to ensure that the payment it makes to those companies bears a direct relationship to the costs that they are actually incurring?

Ms. WILLIAMS BROWN. The one area that there has been movement on this issue has to do with the claims portion of what the WYOs receive. So this would begin to address the Katrina phenomenon, and that is because of——

Senator BUNNING. That was a $22 billion phenomenon.

Ms. WILLIAMS BROWN. Yes. The high number of claims resulted in the WYOs keeping a significant portion of the premiums that they collected because it is based on an average of 3.3 percent of the claims filed, so that portion. FEMA has changed the formula somewhat to hopefully the WYOs do not end up with that huge windfall if there is a catastrophic flood event.

But the other portion of the expense that the WYOs are reimbursed for is roughly 30 percent; that still remains in effect. So they still have the 30 percent, and they get another portion on top of that, as well as a possible bonus. And we have also made recommendations that they reevaluate their bonus program.

Senator BUNNING. FEMA needs to do a little recalculating.

Ms. WILLIAMS BROWN. Well, yes. And we have suggested that they made decisions about how to reimburse the WYOs early on in the history of the program, and they have not leveraged the years of data that have occurred since then in terms of actual flood-related expenses for the WYOs, in determining how much the WYOs need to be reimbursed based on their actual expenses.

Senator BUNNING. Last question, some of my colleagues up here think that we should have a phased-in version over five, possibly, Senator Durbin said, 10 years. Five, Senator Schumer, maybe five plus five more. In fact, if we do that, if the Congress does it that way, you are absolutely correct that this program will fall into an abyss and never pay for itself, and the Government will be on the hook for more than the 18 plus billion dollars it presently is.

Unless we can quantify the risk in the areas where the most flooding takes place—that all has something to do with mapping—we cannot get this program on a sound financial basis. Is that accurate?

Ms. WILLIAMS BROWN. I would say that addressing the subsidy issue is critical to the future solvency of the program.

Senator BUNNING. Thank you.

Chairman DODD. Thank you, Senator, very much.

Ms. Brown, I am going to ask you just to stay at the table. Senator Jack Reed, who is very involved in this issue, is making his way over. So rather than excusing you, I will ask you to kind of sit here while I invite our other two witnesses to come on up and be at the table, and I have introduced them already.

Welcome to the Committee once again. It is Sally McConkey and Nick D'Ambrosia and Stephen Ellis, so if you will join us and if you will just maintain a seat up there some place. I thank all of you for being with us.

I think I notice that all of you were sitting here during all of the testimony, including from Senator Durbin and Senator Wicker, as well as the testimony of Ms. Brown as well. So you have had the opportunity to hear sort of the drift.

And let me also offer to you the same I did the others here. Full testimony as well as documentation and other evidence will be included as part of the record.

I will begin in the order that I have introduced you, Ms. McConkey, and so if you could try and limit it to about 5 minutes apiece it would be helpful.

STATEMENT OF SALLY MCCONKEY, VICE CHAIR, ASSOCIATION OF FLOODPLAIN MANAGERS

Ms. MCCONKEY. All right. Thank you. The Association of State Floodplain Managers thanks you, Chairman Dodd and the Committee Members for their attention to the need to reauthorize and reform the National Flood Insurance Program, and we really appreciate your holding this hearing.

The Association of State Floodplain Managers and its 29 chapters represent over 14,000 State and local officials, and other professionals, who are engaged in all aspects of floodplain management and hazard mitigation. So we have a real interest in looking at the National Flood Insurance Program.

And I would also like to note that actually I am with the Illinois State Water Survey at the University of Illinois, and the program that I manage actually creates the maps for the State of Illinois. We are under contract with FEMA, and we do the mapping for the State of Illinois.

Today we have been requested to address why the NFIP needs to be reauthorized, benefits of the program and what reforms to the program are most important for Congress's consideration.

As already noted, the Flood Insurance Program was created in order to provide flood insurance when there was a gap, that it was not being provided by private insurance company. But also it is noted there are really three strong tenets to the program: It is the identification of the flood-prone areas, it is doing mitigation in those areas and it is providing that flood insurance, so that we can make sure that people can get their lives back together quicker and that we are not spending taxpayer dollars that would have been destined for disaster relief.

But in that same spirit we need to keep in mind that as we reform or look at reforms to the National Flood Insurance Program, that these are interdependent, and a change to one piece of the program is going to have impacts on others, and we need to look at it holistically.

In a larger, even larger context, the Nation needs to formulate a coherent policy to address the Nation's flood risk management that considers policies across agencies and programs.

The Federal Emergency Management Agency is tasked with identifying those flood-prone areas which are shown on the Flood Insurance Rate Maps, and because of growing concerns about the inaccuracy and currency of those maps, map modernization was funded to update the maps and use better technology and new flood data. So, not unexpectedly, the areas shown as prone to flooding have changed.

And it should be noted really that the assessments done so far have shown that while there are many properties newly shown in the flood plain there is almost an equal number of properties no longer shown in the flood plain, as the maps are improved and the accuracy is better. However, we are seeing few challenges to the maps when the floodplains shrink.

Over the last decade, the failure of levees to perform as expected and the resulting catastrophic flooding experienced by so many have really brought into sharp focus the degraded condition of our levees. And FEMA has had the unenviable position of being the bearer of the message, the bad news, when they roll out the new floodplain maps. A lot of times what is wrong with the maps is the fact that people are upset and do not believe that their levees do not provide protection anymore. They are not really challenging the actual mapping based on those assumptions.

While the spotlight is on our national flood risk, it is an opportunity to really examine our entire flood risk management policy and take real action to reduce that risk, and it needs a solid foundation that has already been established based on data, based on engineering and based on science. But the results of many of these technical evaluations that have already been done show areas that are going to flood, levees that will fail or be overtopped, and we need to pay attention.

The insurance standard of a 1 percent chance event is not a safety standard, and many of the insurance claims actually are for properties that are not in mapped flood hazard areas.

I will offer this one example to show you how this can play out. In 1999, the city of Gulf Port, Illinois, not Mississippi, was successful in getting their levee accredited and shown as providing protection from the 1 percent chance flood. In this Midwestern town of about 750 people, nearly everyone dropped their flood insurance.

Then in 2008, when we had the Mississippi floods, their levee failed and the town was inundated. It was more than a 100-year flood actually. The town was inundated with over 10 feet of water. Only 28 people had flood insurance, and the rest were wiped out. It devastated the community and actually the county because of the tax base that was lost. The financial consequences were huge. They still have not quite recovered.

Yet, in the local news, people were featured and quotes were given with the people saying, FEMA said we did not need flood insurance. That is what people perceived. It certainly was not the message that FEMA gave them, but it was how they perceived and interpreted the language of the floodplain maps because they were not required to have flood insurance. Therefore, they thought they would not flood.

Citizens deserve to know and understand their true flood risk, and our national experience shows the true costs of flooding. We have lost lives, businesses, communities disrupted and growing costs to all taxpayers as has been noted, and we need to equitably reduce those risks, not ignore them.

It is essential that the NFIP stay in place to continue providing flood insurance, strengthen mitigation programs and identify those flood hazard areas, and we really appreciate the Senate's action this week to reauthorize the program for a year. But we do need to go further and creatively rethink the NFIP and look at our flood loss reduction policies.

FEMA has already begun a careful assessment, looking at decades of research, holding listening sessions and self-examination, and they will be providing recommendations to Congress on how to rethink and redo the NFIP. ASFPM supports providing time for

FEMA to prepare this assessment and careful consideration of their recommendations.

We support development of more effective incentives for flood loss reduction in communities, particularly those that are already using higher standards.

We support clear communication, and we see the need for clear communication of flood risk to individuals through improved outreach communication and support FEMA's new risk map outreach and mitigation efforts. Delivery of updated floodplain maps that inform citizenry of hazards should not be delayed.

We do need creative solutions to address the issues of affordable insurance through appropriate mechanisms, such as the means-tested vouchers for low income, at-risk citizens, community—based flood insurance policies or levee district flood insurance policies.

ASFPM supports forgiveness of the debt to restore stability to the program but urges Congress to consider either clearly stating that the NFIP is not intended to cover catastrophic losses or adjusting the program so that it can handle them.

We believe the current problems confronting the program offer real opportunity to adjust and improve our Nation's efforts to protect our citizens and their property.

Thank you very much for this opportunity to testify, and I am happy to take questions.

Chairman DODD. Thank you very much.

Mr. D'Ambrosia.

STATEMENT OF J. NICHOLAS D'AMBROSIA, VICE PRESIDENT OF TRAINING AND RECRUITING, LONG & FOSTER

Mr. D'AMBROSIA. Chairman Dodd, good afternoon, Members of the Committee. Thank you for inviting me to testify today regarding the reauthorization of the National Flood Insurance Program.

My name is Nick D'Ambrosia. I have been a realtor since 1973. I have held numerous positions throughout the realtor organization. Most recently, I served on NAR's task force to examine how to improve access to affordable property insurance, including insurance for flooding. I, today, testify on behalf of the more than 1.1 million members of NAR who are engaged in all aspects of the real estate industry.

Since September of 2008, Congress has approved 8 short-term extensions of the NFIP. Twice, it has been allowed to expire for several weeks at a time.

My message today is very simple. We need to reauthorize and strengthen this program for the long term. Anything less will continue to undermine the fragile real estate market.

About a week from today, on September 30th, NFIP authority is set to expire again for the 9th time in 2 years. We are pleased that last night the Senate passed Senate Bill 3814 to extend the deadline by 1 year, and 1.1 million realtors thank the Senate and the Members of this Committee and you, Mr. Chairman.

We would urge the House to quickly do the same, so that Congress has time to complete work on the long-term reform bill. This month-to-month approach has hindered recovering real estate markets and increased uncertainty for the more than five million taxpayers who depend on the NFIP for basic flood protection.

While we are beginning to see some signs of stabilization, the housing market is in a very precarious position, with sales at 15-year lows, excess inventories and numerous foreclosures. Commercial property values have fallen 43 percent across the board since 2007. Our Nation cannot afford further negative shocks to these markets.

The House has already passed its NFIP reform bill, H.R. 5114, which makes some difficult reform choices but also reauthorizes the program for a full 5 years.

As the Committee considers legislation, we would ask that you consider the following views regarding NFIP reform:

NAR supports reforms to strengthen the NFIP's solvency as part of long-term reauthorization. Increasing participation would increase funding for the NFIP, help property owners recover from flood losses and decrease Federal assistance when uninsured properties flood and suffer loss. To this end, NAR strongly supports provisions for outreach and education to consumers about the availability and importance of flood insurance. Offering additional coverage for living expenses, business interruption and replacement cost of contents would attract new participants.

Maximum coverage limits for residences, nonresidential properties and contents, which have not been adjusted for inflation since 1994, should be updated to reflect today's property values and provide fuller coverage.

NAR strongly supports extending and fully funding the current pilot program to mitigate properties which have repeatedly suffered insured flood losses. However, we do continue to have concerns about how to phase in rates for pre-FIRM properties without a demonstrated history of loss.

I would like to thank you again for the opportunity to share the realtor community views on the importance of the NFIP. NAR stands ready to work with Members of this Committee, to develop meaningful reforms to the NFIP that will help property owners and renters prepare for and recover from future losses resulting from floods.

Chairman DODD. Thank you very much, Mr. D'Ambrosia.

Mr. D'AMBROSIA. Thank you, sir.

Chairman DODD. I have just gotten a note by the way from Senator Reed's staff. He will not be able to make it down. He is going to submit some questions for you, Ms. Brown. I know he does want to speak to you.

There is large group of constituents from Rhode Island who are in town for the day, from the business community, and I know that he and his colleague, Sheldon Whitehouse, are meeting with those business people all day. I think he had hoped to get away for a few minutes and just could not do so, but he wanted you to know he is going to submit some questions for you. As I mentioned earlier, Jack Reed has been very involved in this issue.

So I appreciate your sitting at the table, but you are excused if you like. Thank you.

Mr. Ellis, welcome.

STATEMENT OF STEPHEN ELLIS, VICE PRESIDENT, TAXPAYERS FOR COMMON SENSE

Mr. ELLIS. Thank you, Chairman Dodd.

Good afternoon. I am Steve Ellis, Vice President of Taxpayers for Common Sense, a national nonpartisan budget watchdog. Thank you for inviting me here today to testify on reauthorizing the National Flood Insurance Program.

TCS is allied with SmarterSafer.org on NFIP reform. This coalition represents a broad set of interests, from American Rivers to Americans for Prosperity, from the National Association of Mutual Insurance Companies to the National Flood Determination Association. I would like to submit for the record SmarterSafer.org's principles for NFIP reform.

Will Rogers observed that if you find yourself in a hole, stop digging. Well, NFIP is $18.8 billion in debt to the taxpayer and has annual revenues of $3.1 billion. With that in mind, any reauthorization of NFIP must make significant changes to put it on sounder financial footing, not dig a deeper hole with loopholes, new insurance lines or undercutting the program's ability to charge actuarially sound rates.

Before NFIP was created in 1968, the Presidential Task Force on Federal Flood Control Policy wrote, "For the Federal Government to subsidize low premium disaster insurance or provide insurance in which premiums are not proportionate to risk would be to invite economic waste of great magnitude." Sounds about right.

To foster increased participation, the NFIP does not charge truly actuarially sound rates. Fiscal solvency is defined as charging premiums that will generate enough revenue to cover a historical average loss year. Catastrophic loss years are largely left out of the equation, and shortfalls are met by borrowing from the U.S. Treasury, a significant subsidy in and of itself.

Twenty percent of insured properties predate a community's involvement in the NFIP, or Flood Insurance Rate Map, and pay only 35 to 40 percent of their actual full-risk level premium. Repetitive loss properties, as has been mentioned, represent only 1 percent of the total number of policies, yet account for up to 30 percent of the payouts under the program—like a property owner in Houston, Texas that has received 1.6 million in payouts for a house that is worth $116,000. We need to help these people out, out of harm's way, and at the same time help the taxpayer who is picking up the tab.

NFIP insurance rates are driven by maps of the Nation's dynamic floodplains. Areas that were previously less likely to flood could now be more likely. Levees that were adequate a decade ago may provide far less protection due to poor maintenance or increased flood elevations. The maps must be up to date, accurate and based on the best available science. FEMA has been modernizing the maps, and in some cases homeowners are facing steep increases in premiums as we have heard earlier today.

In response, several lawmakers have introduced legislation to either roll back or delay mapping changes and commensurate rate increases. The House included it in their NFIP reauthorization. Absent strong scientific evidence of specific inaccuracies, efforts to delay and forestall map revisions must stop. Legislation does not alter geology. It may be popular to delay map modernization or waive building standards, but what makes good politics generally makes bad insurance policy.

Remember, regular homeowners insurance does not cover floods. People deserve to know the costs and the risks of where they live, and taxpayers deserve to have those who choose to live in harm's way to pick up part of the tab. A better way to ease any sticker shock would be to provide for a relatively short phase-in of actuarial rates or other assistance.

Besides the mapping issue, there are other efforts that would take a backhoe to NFIP's deep financial hole. One is the addition of wind insurance. It simply does not make sense to add a whole new business line to the already challenged flood insurance program.

Another related area is the effort to create a new national catastrophe reinsurance program for State-run reinsurers. Private reinsurance, essentially insurance for insurance companies, is widely available. However, some States want the Federal Government to subsidize reinsurance rates as well.

The current NFIP model is clearly not sustainable. The subsidies have to be phased out, and the program has to move toward actuarial rates. This would help eliminate the cross subsidies that have a few homeowners picking up the tab for properties that have enjoyed subsidized premiums for decades.

There must be a strong commitment to help communities and homeowners to reduce their flood vulnerability, eliminate the problem of repetitive loss properties with elevation and relocation programs, increase the availability of accurate information about flood risks and ensure adequate enforcement of program rules. Additionally, NFIP should begin to identify pilot areas that the private sector can begin providing flood insurance.

Last Congress, the Senate adopted important reforms as well: mandated insurance in residual risk areas—those in a natural floodplain but protected by a levee, flood wall or dam, like those in Gulf Port, Illinois, as was mentioned earlier—also charging rates sufficient to create a reserve fund for a higher than predicted loss years.

The shaky foundation on which the flood insurance program was based has enormous cracks. Congress and the Administration can either create even greater cracks by adding new business lines or delaying a shift to actuarial rates and updated flood maps, or remake and strengthen that foundation by putting the program on more solid financial footing.

Thank you very much.

Chairman DODD. Thank you very much, Mr. Ellis. I appreciate that.

Just to pick up on the wind issue, I have listened to Senator Wicker and others come to talk about it. I am sympathetic obviously to what they go through, but I do not think there is anything.

You see the difficulty we have, even having passed a bill last year pretty overwhelmingly, and I think people saw the bill as being a pretty good piece of legislation. In fact, we had some pretty good amendments that were offered that challenged the very foundation of the legislation. That is the obligation of those who choose to live in these areas picking up I think it was a dollar a day. I think the average premium was about $360 a year, and there was still awful resistance even to that idea. They were not exorbitant costs, but it was considered enough to at least provide the coverage for people in those areas and reducing the exposure to people who live in other parts of the Country that are being asked to subsidize people's choices about where they live.

Let me ask you all a series of questions here if I can, and then I will leave the record open for several days as well, so that additional questions may be offered by my colleagues. I think all of you, as I said earlier, were here for hearing Senator Durbin's and Senator Schumer's remarks regarding the flood mapping, and again you heard Senator Shelby and others raise the issue and conversation with Ms. Brown as well on the topic. She was asked about it. And I know, as we have discussed, FEMA has been working on this to try and get this right.

I was thinking as you were testifying. I mean today with all of us having MapQuest and Google Earth. It's frightening what you can pull up on your BlackBerry, let alone some high powered computer, to hone in on exactly what is occurring in almost anyone's backyard in the Country. So to me the technology of mapping, it seems to be, ought to be fairly sophisticated today and fairly accurate based on what you could overlay and lap and historical records and the like.

Now last Congress, of course, we would have authorized more funding for a technical advisory council to improve this even further, the mapping. I wonder what your perspective is.

You sort of shared some, Ms. McConkey, on this already. I gather you felt probably and somewhat disagreed with Senator Durbin then, unless I misread what you said. I mean he came to me early and talked about the mapping problems as he saw them in southern Illinois. What is your take on that?

Ms. MCCONKEY. The change in three counties—St. Clair, Monroe, and Madison County are the locations where there has been most of the focus of attention because of the levee decertification.

Chairman DODD. Right.

Ms. MCCONKEY. And the new study that was actually shown was a study done by the Corps of Engineers. People really have not challenged the discharges or the elevations that the Corps of Engineers came up with. What they were challenging was they did not believe their levees were not going to hold against the flood. The challenge was the viability of the levees, not the quality of the engineering work.

Chairman DODD. Unlike New York where they are challenging the engineering and the level of the floodplain.

Ms. MCCONKEY. Correct. That was the point I was making. There is a certain amount of debate about coastal analysis that is still a little bit more open than riverine analysis, which is a little bit better established.

Chairman DODD. Well, what do you recommend here? Because, again, I can see this is a growing problem as you get the kind of political influence coming to bear on the decision making, we delay, you know, 1-year extensions, 1-year extensions in a lot of this. I am anticipating a lot more interest in this as you get these maps coming forward and communities reacting, picking up the phone and calling their Congressman and their Senators and coming before—either calling me or others and saying you have got to get a moratorium, we cannot afford to do this. Obviously, they have a pretty good case today given the economies of scale.

I would ask all of you to comment on this. I understand your point, Mr. Ellis. I agree with you on this. But I wonder if you have any practical suggestions on how we might deal with this?

Ms. MCCONKEY. One thing that I think that is really important to point out was the fact—the cause of the analysis, looking at those levees down in the Metro East area, we became aware of a real flood risk and a public safety issue. And I think the biggest question we have before us is how we can deal with the public safety issue. The affordability of the flood insurance is a separate issue.

The fact that the maps were going to be going effective got everyone's attention, and I think that a gradual phase-in—not a 5-year moratorium but a gradual phase-in of the flood insurance would keep that in the public eye, keep the focus and the pressure on dealing with the real problem, which is the degradation of the levees, and allow people to adjust and make decisions over time. It is important to get that bill in front of them, but it should be phased in.

Chairman DODD. I should have asked you, by the way, he makes the case about how you should be basing these maps on watersheds. Do you agree with that?

Ms. MCCONKEY. The analysis needs to be done based on watersheds, and it was done on a watershed basis. It was just the timing of actually coming out with the digital—with the effective flood insurance rate maps, and that was more the timing of the maps of the consequence in terms of the equitability issue on when Illinois had to start buying flood insurance *versus* Mississippi—Missouri.

Chairman DODD. Let me ask either one of you, do either one of you want to comment on these questions I have just raised? Yes, Mr. Ellis.

Mr. ELLIS. Sure. Mr. Chairman, I think that also—I think that is exactly it. It was more about the fact that the cost of owning a home east of the Mississippi River was going to be higher relative to the cost of owning a home west of the Mississippi River, and that was some of Senator Durbin's concern and why he wanted to look at it rather than from a scientific point of view, just sort of relative economics. Because, clearly, the flood protection, you know, the issues there are different. I mean, St. Louis has a flood wall. There are levees in East St. Louis.

But then also I think the other point that I wanted to raise about Senator Schumer's comments about, well, there had never been flooding here before, well, geology changes. I mean, we are spending millions of dollars every year pumping sand onto Long Island's beaches to try to forestall erosion. So, clearly, the land changes and so there are areas that did not use to flood that are going to flood now just because of development and other issues. So the idea that it never happened or it did not happen when the Long Island Express came through 70 years ago does not really get to the issue of the maps. And I think absolutely there is going to be a lot of controversy, I think you are absolutely correct, Mr. Chairman, and that it is going to only build as the maps come out. But I think that the idea that we would basically wait 10 years before people would actually be paying the full freight of where they live is doing a disservice to those people, one, because there is an economic issue of where they can think about what they can do and mitigate and other things, and it really brings to bear some of the underlying issues of where people choose to live; but also it is doing a disservice to all of us because we are being stuck with that tab when it seems likely that there are going to be several floods in these areas, wherever they are in the country in that 10-year period that they are not actually paying their way.

Chairman DODD. Mr. D'Ambrosia.

Mr. D'AMBROSIA. But the reality—I would just like to address what was just said, if I may. The reality of the taxpayers being stuck, the taxpayers pay one way or the other. If there is no Flood Insurance Program, then the taxpayers end up paying once the disaster occurs. And then there is the taking care of the disaster. So it is a hard bullet to dodge. You either address it up front and try to get as many people into the program to create the funding necessary to do it, or you are going to pay in the end, anyway.

Chairman DODD. I was thinking as Mr. Ellis was talking, I recall being—having spent a little time in Iowa a couple years ago, the Missouri River in Kansas and Iowa, and how the Missouri River changed course. And there was the debate over—in fact, I think it went to the Supreme Court—as to whether or not the boundary between those two States would change because the river changed not long ago.

Mr. ELLIS. Right.

Chairman DODD. But you are absolutely right about that. These things change all the time. And if Al Gore is right at all, in Kansas you could be living on the shoreline.

Let me go back to the issue of the levees and the flood control infrastructure issues, and I wonder if you might elaborate—again, Ms. McConkey, let me ask you this as well. Can you elaborate on the scope of this problem beyond your Illinois perspective, obviously, and some examples of where this need has been effectively addressed or examples of where such infrastructure is falling apart that you are aware of besides the one you talked about?

Ms. MCCONKEY. Well, actually, there is—it is a national issue. We are seeing a lot of the levees, particularly in California, that have been identified as not meeting standards. There are a number of levees in Illinois. There are hundreds of cases. And I am a little bit stumbling right now to give you a specific one like the Gulfport one, but I would point out that there has been—— through the Water Act of 2007, the National Committee on Levee Safety was convened, and they are—one of the top things they did was to say that we need to have an inventory of the levees that are in the Nation and also an inspection of those levees. And that is ongoing right now through the Corps of Engineers.

The problem is extensive. We could find—there is data on the number of provisional letters of accreditation that FEMA issued whereby when the maps were being done, if the levee owners signed that they believed that the levees would provide protection from the 1-percent flood, they thought that they would build to provide the proper documentation, FEMA would grant them provisional accreditation. Many of the new maps rolled out with that provisional accreditation, and FEMA will have numbers on the—they had 2 years to provide the data, and there are hundreds of levee owners that are not—those letters are coming due. It is time for them to show the data, and they are not able to do it, and levees are being de-accredited because the information is not there.

Chairman DODD. But your association—do you have an independent source of information on this, or are you just relying on others?

Ms. MCCONKEY. On the problem——

Chairman DODD. Yes, just an idea of a cross-section of the country. You mentioned California specifically, but do you have other information about other States? Or do you have to go to the Corps of Engineers for that kind of information?

Ms. MCCONKEY. We do not have any independent information. We would be relying on what the Corps has, and looking—actually, I serve on the Review Committee for the National Levee Safety Committee, so that is really my source of information. But one thing that is important, back to my testimony, is that we do need to look at these issues of coordination between the agencies with the Corps and with the Federal Emergency Management Agency and the USGS so that we have coordinated policies that move us toward a safer environment and mitigate our flood risk.

Chairman DODD. Thank you.

Mr. D'Ambrosia, you mentioned in your testimony education and outreach obviously is an important step for FEMA and the communities to take to make sure their residents are aware of the flood risks. Do you have any idea what FEMA is currently doing to support this effort and what it could do to make it better? And who in your view, an insurance agent, a real estate agent, mortgage broker, Government official, who is the best person to convey that kind of information?

Mr. D'AMBROSIA. Well, what you see currently from FEMA is a series of commercials telling people about flood insurance and the opportunity that the properties have to flood. As far as getting entities from the housing industry involved, the National Association of Realtors itself is willing to go ahead and talk and participate in those actions.

As was said earlier today, 50 percent of the people who are in floodplains do not have flood insurance for a variety of reasons, either they——

Chairman DODD. How realistic would it be, with all due respect, to have a real estate agent be reminding a home buyer of some additional costs they are going to have to take? That is not the kind of thing you want to raise with a buyer unless it is mandatory where you have certain requirements under law that you have got to meet. But assuming this is not being followed to the letter with as much as 50 percent of the people who are not complying, how—and I say this respectfully. But how likely, if you are trying to make a sale and get something done here, you say in the middle of that, "By the way, I forgot to tell you. You are going to owe another 200 bucks or 300 bucks a year for this stuff."

Mr. D'AMBROSIA. Well, Senator, as you mentioned earlier, I sit on the Maryland Real Estate Commission, so we make rules all the time that real estate agents have to go out and follow and give disclosures and tell people they have to spend extra money.

You know, part of it comes down to protecting the public, and the reality is that without the flood insurance, you know, as was mentioned earlier by Senator Tester, you know, there are only a couple private companies out there—Chubb, Lloyd's of London, I think there are two more—that will go ahead and even address flood insurance with people. And usually they are addressing it with high-cost homes and more wealthy people. You know, for the person in the middle class who lives in a community such as Chesapeake Beach, Maryland, where the homes are smaller and they are old and have been there for a while, there is nowhere for those people to turn when they want to go ahead.

So if it comes down to that—since there is a paying, anyway, either by all or by people who are buying in the floodplain, there is no—things have to be paid for, and if it has to be put forth to people you need this program, it is going to cost you $200, it is always better to spread it out over the group of the people rather than to concentrate it on a few. Otherwise, you end up in a situation——

Chairman DODD. What do you do in Maryland? What do you tell people? What does Maryland require?

Mr. D'AMBROSIA. Well, in Maryland, it depends on the area which you are in. Ocean City, of course, and down through the coastal regions. Maryland has more coast than any other part of the country. So you have a lot of people that are affected by it. It is presented to people. It is not required to be presented, but it is presented by those sales people in those various areas.

Chairman DODD. As a regular matter?

Mr. D'AMBROSIA. As a regular matter, because usually the mortgage companies that are giving the loans in those areas require it.

Chairman DODD. Yes. Mr. Ellis, you mentioned that the Flood Insurance Program was established with the goal of promoting the wise use of floodplains, and obviously you are right in that. And you and others have noted that communities continue to develop in risky areas. I wonder if you have any more recent examples of development that occurred after the inception of a program that may have been unwise to build? I can think of some, but do you have some that come to mind in your work?

Mr. ELLIS. Well, you know, actually, not to pick on Louisiana, but the whole area of New Orleans East developed after the creation of the program, and actually you can look at it, it kind of shows some of the problems with our whole flood protection, flood insurance infrastructure where essentially the Army Corps of Engineers built flood protection out in that area, which then induced development behind the levee, which is an area that got completely destroyed by Hurricane Katrina. That was all in the 1970s, so after the development of—after the Flood Insurance Program was instituted, and it also sort of shows that some of the problems that we have is that right now, you know, essentially for years we have dumbed down our Nation's flood protection to the 100-year or the 1-percent flood, because essentially communities knew that if you had a levee that gave you 100-year protection, then you did not have to buy flood insurance. And so that was always the target, was to get something along those lines, when in reality we recognize that it is far less protection than what communities need, and that was why one of the things that I complimented you on on your bill from last Congress was this idea that you—mandatory in residual risk areas, the areas like Gulfport, Illinois, purchase flood insurance, and it would be less expensive than if you were actually in that floodplain. But you are in the floodplain, you just happen to have manmade protection. And I think that you can look along the Nation's coastlines, and you can see all the development that has occurred there. That is all the floodplain. I mean, I do not think you are going to change that. People like to be near the water. It is sort of a human instinct. And so it really is then making sure that people know what their true cost is, not just from an economic point of view for the taxpayer, but from a human life point of view, people knowing that they are moving into harm's way and some of the issues surrounding that.

Chairman DODD. Well, I agree, and I am glad you pointed out what we did last year in the bill. You understand the political difficulty when all of a sudden the Federal Government starts telling local communities how to develop land, let alone State and local. I mean, you see those problems. But clearly we need to. There is no question about it. It is a great disservice to people, and obviously this runs directly, Mr. D'Ambrosia, in the face of builders, realtors, and others, that the last thing they want is big Government. Today we all know what is going on politically in the country. But to talk about having—because we all end up paying. Asking some taxpayer in Nevada or Idaho—I am using those States somewhere in the Midwest—to pick up the cost of people who make choices to live elsewhere or communities or States that allow property to get developed in areas where clearly they are at risk—I mean, these are hard calls, but I do not need to tell you the political mine field you enter when you start advocating suggestions like that. We need leadership out of the real estate community and others to help step up on these matters, or it is just going to get out of control.

Mr. D'AMBROSIA. Senator, if I may, and I totally agree with what you just said. The flood insurance does not really spawn the development. The development is going to happen in one way or another. As Mr. Ellis pointed out, people like living by the water. But also at one point in time there was a necessity for people living by the water—Baltimore, Boston, where because of shipping and everything else, fishing in Maryland—you mentioned Maryland, the fishing industry in Maryland.

What happens, those properties are already there, they are already developed. They are already in place, and there has to be an avenue for those people to be able to transfer those properties when the need arises.

Mr. ELLIS. Mr. Chairman, I would just point out that there is an existing program, just to challenge Mr. D'Ambrosia on one little bit of this, and that is, the Coastal Barrier Resources Act was created in 1982 and then expanded in 1980, and essentially it was something where they would deny flood insurance to undeveloped coastal barrier islands, and they worked with the States to identify these. And the Fish and Wildlife Service has done a study and has looked at property that is right outside the CBRA unit, the Coastal Barrier Resources Act unit, and they went inside. And really the key subsidy that drives this sort of—that drives the development, because you can still build in these areas. You just cannot get any Federal subsidies for building or flood insurance, the Flood Insurance Program. And the Fish and Wildlife Service has documented that that is one of the key things in these coastal areas that fuel development. And it is really amazing. You can look at some of the aerial photos of these barrier islands, and you can basically tell exactly where the line is. The really popular areas still will build. People will privately insure. But in many cases it is actually—you can see that flood insurance is one of the key drivers or enablers of development.

Chairman DODD. I recall, by the way, you mentioned East New Orleans, flying in a helicopter just a few days after Katrina, and that whole area, it was just stunning. All you could say to yourself was, "How did that ever get developed?"

Mr. ELLIS. And, Mr. Chairman, actually in the 1970s when the Corps first proposed this, because it was all supposed to be in response to Hurricane Betsy, their flood protection, then Congressman Livingston was a freshman, and he was on the Committee there, and he basically challenged the Corps, saying, "Well, why are you building levees where people are not in New Orleans East"—because they were not there yet—"instead of building higher and stronger levees where people are, in New Orleans." It was really because that was the way that the Corps did their analysis, and the economic benefit of developing that basically virgin area was a much greater benefit to overcome the cost of the project than to actually put higher and better levees in New Orleans.

Chairman DODD. Interesting. Well, listen, I thank you. You have been very informative, very helpful, and enlightening as well. I would love to tell you I know what is going to happen here. I get uneasy about extended moratoriums and not really addressing what we need to address. It is kind of a classic response of Congress these days, kicking the can down the road. But the problems do not go away. They only get worse. We have a pretty good idea what needs to be done.

The mapping issue is one that has been raised here, and that is going to be around. We have got to address that to some degree. And I think having phase-ins, even the grandfathering provisions we heard from Ms. Brown will help, I think, to ease some of the political pressures against this. But I am not sure we can get the kind of 92–6 vote again in the Senate, even with that same bill and the same make-up of the place. We might have difficulty getting there. But I wish we could get beyond the 1-year extensions. Again, I am moving on and leaving, and others will have to pick up this issue. But I would like to see if it were not possible—and the House-passed bill, would you vote for the House-passed bill, Mr. Ellis?

Mr. ELLIS. No, sir, I would not.

Chairman DODD. So you do not think we ought to try and do that.

Mr. ELLIS. No. I think that the House bill—it has the 5-year—I mean, it has essentially what was proposed here, which is 5 years waiting on the maps implementation and 5-year phase-in of the cost. And that is just way too long.

Chairman DODD. And I agree with you, but as a practical matter, my concern is that that 5 years, we might look back a year from now and say, "You know something? Offer me the 5-year and I will take it now," because I am fearful what I am going to get is a 10-year proposal and so forth, as more of the mapping issues come up, and others, and we might regret not having grabbed what we could grab, and then work it over these next 3 or 4 years. That is where the tipping points are politically. I do not like them necessarily, but in the world that I have to function in here—and this happens to me all the time—I have to find out where the tipping points are politically before I can get something done. I am not crazy about five.

Mr. ELLIS. Right.

Chairman DODD. But if it is the only thing I can get *versus* 1-year extensions, inevitably——

Mr. ELLIS. Well, I think that—I mean, the Senate has always been sort of the bulwark on this issue, and, you know, certainly I think that the one thing that the House did better this time was that they did not include wind.

Chairman DODD. They dropped wind.

Mr. ELLIS. And so that is the one improvement. But I think that working with the Senate, actually having more of their imprint on the final product will turn out a much better product than what the House got, and hopefully the 1-year extension will continue to provide a little bit of pressure—not be ridiculous. I agree the month-to-month extensions are ridiculous and do not help anybody at all. But the 1-year hopefully gives the new Congress enough time to sort of build and to come up with something.

Chairman DODD. There is an old Gaelic expression, "From your mouth to God's ears."

Mr. D'AMBROSIA. Senator, if I may, you know, one of the things that I mentioned—and Mr. Ellis is correct—when you have those lapses and then it takes time to go ahead and get things approved and ramped up, everybody reacts differently. Consumers react differently. They lose confidence. They drop out of the market. They lose their loan lock. Lenders react differently. You have some lenders who say, "Oh, we know Congress is going to reapprove this." And other lenders say, "No, no, we are not going to settlement until it is in place."

So it goes ahead, and it causes literally thousands of settlements to either be postpone or canceled. And we all know how fragile the market is, and I am sorry I am myopic in my focus on housing.

Chairman DODD. No, no. It is your job.

Mr. D'AMBROSIA. Housing does drive a lot of what goes on.

Chairman DODD. So you would be—where do you come down? If I just made you a Senator and you got a vote——

Mr. D'AMBROSIA. We would be in favor of——

Chairman DODD. You would vote it just to get something going. How about you, Ms. McConkey?

Ms. MCCONKEY. We would not be in favor of the 5-year extension. We would like to see what FEMA is going to come up with in the next year on their recommendations for a real rethink of the

NFIP. There are a lot of issues that have come up since those two bills were considered by the Houses, and I think FEMA would be the best one to make some good recommendations.

Chairman DODD. Well, you have got some good Members here. As I mentioned, Jack Reed has a strong interest in this subject matter. You heard Senator Tester here. These Members will be back. Senator Shelby has a strong interest in the legislation as well, and Tim Johnson, so I am optimistic that the next Congress and this Committee can pick this up and move forward with it.

I cannot thank you enough, all three of you. Sorry we did not have more colleagues here, but in the afternoon there are all sorts of things going on up here in the last days before the election starts, so we do not have as much participation. But this is a subject matter in which there is a tremendous amount of collegial interest, I can tell you, in the Flood Insurance Program.

So I thank all three of you. We will leave the record open for a few days.

Mr. ELLIS. Thank you very much.

Ms. MCCONKEY. Thank you very much.

Mr. D'AMBROSIA. Thank you.

Chairman DODD. The Committee will stand adjourned.

[Whereupon, at 4 p.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN CHRISTOPHER J. DODD

I welcome everyone here today for a hearing on the "Reauthorization of the National Flood Insurance Program," or NFIP.

The NFIP is an important program providing a range of benefits to deal with an often overlooked, but serious, threat. Floods cause more damage and create more economic losses than any other type of natural disaster. While the topic may bring Hurricane Katrina's Gulf Coast devastation to mind, the truth is that floods can happen anywhere. Parts of my home State of Connecticut were ravaged by flooding this spring.

Flood insurance provides critical assistance to 5.5 million families and businesses—insurance to help them recover from flood damages and mitigation assistance to help them avoid damages in the future. It also provides a framework of responsible flood plain management, requiring safer, more environmentally sound development that limits Americans' flood risks. Together, these measures save taxpayer money by limiting the amount of emergency disaster assistance necessary in the wake of flood events.

Despite these many benefits, the program faces serious challenges that threaten its ability to carry out its mission.

Hearings before this Committee in previous Congresses revealed a number of issues in need of reform. Perhaps foremost is NFIP's financial condition, which threatens the program's long-term viability. Due to increased borrowing to pay claims for catastrophic disasters in 2005 and 2008, the NFIP faces almost $19 billion in debt to the Treasury, a sum it is unlikely to ever repay. Subsidized rates for nearly 25 percent of policy holders do not reflect the actuarially sound rates sufficient to cover expected claims.

Another key issue is ensuring that citizens and the Federal Government understand their risks. Despite mandatory-purchase requirements for properties in flood hazard areas, only about half of all property owners in those areas actually participate in the program, increasing their potential exposure to devastating losses. On top of this, until recently, FEMA had been using outdated, paper-based flood maps to assess risk.

These and other concerns caused GAO to place the program on its High-Risk List in 2006.

In the last Congress, Senator Shelby and I worked together on flood insurance reform legislation to put the NFIP on a stronger footing for the future.

That bipartisan, fiscally responsible legislation would have provided comprehensive NFIP reform to address these pressing issues, and would have reauthorized the program for 5 years. It would have relieved NFIP's debt while requiring actuarially sound premium rates. We worked with Senator Jack Reed on provisions to strengthen FEMA's mapping capabilities to inform citizens of their risk and accurately set premium pricing.

In recent years we have heard a number of proposals to improve insurance options and delivery for so-called "multiperil" events—such as those involving both wind and water, for example, and for lowering the cost of insuring against catastrophic natural disasters. Our legislation also called for the creation of a National Commission on Natural Catastrophe Risk Management and Insurance to provide expert recommendations to the Congress on these complex topics.

In 2008, the Senate adopted this bipartisan legislation by an overwhelming 92–6 vote. Unfortunately, we did not reach agreement with the House. Since that time, the program has been operating under a series of shorter-term extensions.

While our comprehensive reauthorization discussions continue, I have been working with my colleagues to ensure that the program remains in force. Last night, the Senate approved a 1-year extension of the NFIP. A multiyear reform bill is preferable to an extension. However, such an extension will, in my view, provide necessary program and market stability to homeowners, lenders, and insurers while Congress considers the next steps for the reform of the NFIP.

The purpose of today's hearing is to return to our discussion of comprehensive flood insurance reform. We will hear from distinguished colleagues and experts about the status of the NFIP and their prescriptions for reform.

Before I introduce the panelists, I will turn to Senator Shelby to see if he would like to make any opening remarks.

PREPARED STATEMENT OF SENATOR RICHARD C. SHELBY

Thank you Chairman Dodd.

The National Flood Insurance Program remains in serious trouble and is in desperate need of reform. Every aspect of the program must undergo significant revisions. This concern is clearly not partisan, nor is it novel.

Since early 2006 the GAO has targeted this program as "high risk" because of both the massive debt problems plaguing the program and the imbedded structural deficiencies.

During the 109th Congress, this Committee held multiple hearings on ways to improve the Flood Insurance Program. Ultimately, with Chairman Dodd's leadership, this Committee voted unanimously on a piece of legislation that addressed many of the program's core deficiencies.

For example, the bill immediately eliminated subsidies on vacation homes, businesses, and severe repetitive loss properties, and established a process for the elimination of all subsidies in the future.

The bill addressed insufficiencies in the current maps by setting forth stringent standards that the program must use to complete the map modernization process.

The bill provided both State and Federal bank regulators with more tools to ensure that homes in a floodplain had the necessary coverage.

Finally, the legislation created a mandatory reserve fund to provide additional funding to help pay future claims without further need to seek contributions from the U.S. taxpayer.

The legislation passed by the Senate during the last Congress is a good starting point. There are, however, several other reforms that this Committee must consider.

First, the GAO is about to complete a number of studies on specific aspects of the program, including a thorough examination of the relationship between the program and the Write Your Own (WYO) insurance companies.

We need to have a full understanding of the costs and benefits provided by the Write Your Own program. If there is fat in this program, we need to trim it.

In addition, we need to know more about who is using the flood program to ensure that its resources are targeted. The Congressional Budget Office (CBO) has determined that 12 percent of the homes receiving subsidies under the program are worth more than $1 million. We need to ensure that the program requires wealthy participants to pay their full freight.

There also has been much attention focused on the mapping for this program.

The map modernization process has been ongoing within the program for several years. These maps are important for two reasons.

First, they serve as a warning for developers and homeowners about the risk of developing or living in a floodplain.

Second, they ensure that individuals paying into the flood insurance program are paying fair prices for coverage.

Several groups have stated that the program has not given communities the ability to have input in the map making process.

While I believe that it is important that communities have a voice in this process, I am concerned that many who wish to contribute only are attempting to slow down the process of modernizing the flood maps.

Government transparency is crucial, but this process needs to take place rapidly. Many of these maps are several decades old and do not accurately outline the costs and risks of living within the floodplain.

Finally, the term "actuarially sound" must be defined in a manner which ensures that the premiums cover the costs.

Once this definition is codified in statute, there will be no question that we intend this program must be financially self-sustaining.

Yesterday, I agreed to allow the program to be extended once again. While there needs to be a degree of certainty for policy holders, we are not serving the American taxpayer well by continually extending a fundamentally flawed program.

The National Flood Insurance Program is broken. The sooner we get around to fixing it, the better it will be for everyone.

Thank you Mr. Chairman.

PREPARED STATEMENT OF SENATOR TIM JOHNSON

Mr. Chairman, thank you for holding this important hearing regarding the reauthorization of the National Flood Insurance Program (NFIP).

The goal of the NFIP has always been to enable at-risk property owners in participating communities to purchase insurance as protection against potentially catastrophic flood losses. If such Federal insurance were not available, citizens would be exposed to unacceptable risk, and Congress would face ever-escalating requests for Federal grants to rebuild uninsured flood-zone properties. Though the NFIP does involve costs for the Government and for individuals in flood zones, the program is a cheaper alternative to letting flood-zone properties remain uninsured.

But this program has faced many challenges in recent years, including an expansion in the size of the program, a debt to the Treasury, repetitive lost costs, and the reality that the policies may not be priced at their actuarial price. After Hurricane Katrina, this Committee began bipartisan work on legislation to reform and reauthorize the NFIP. While the Senate has passed legislation the past two Congresses, differences between with the House and Senate legislation have gone unresolved. Authorization for the NFIP has had to be extended on a short-term basis as Congress works to resolve differences over the longer-term reform.

These short term extensions have led to several temporary terminations of the program. These temporary terminations are disruptive, frustrating, and confusing to the many people who rely on flood insurance; they also cause uncertainty for those Americans trying to buy new homes. They also demonstrate how vital it is for Congress to approve a long-term extension and eventual reform of the NFIP, which would give certainty to those seeking to purchase flood insurance for their homes. I am pleased that last night, the Senate approved an extension for 1 year.

In addition, I have supported reauthorization and modernization of the NFIP many times and continue to be hopeful that long-term reform can be agreed upon within the Senate and successfully reconciled with the House of Representatives. Now that we have approved a longer-term extension of the NFIP, we can work on modernization proposals. While the legislative days are numbered this year, making modernization proposals unlikely, I hope my colleagues and I can begin work on a modernization proposal that we can take up as soon as possible.

PREPARED STATEMENT OF SENATOR JIM BUNNING

Mr. Chairman, thank you for holding this hearing.

One of my proudest accomplishments in the U.S. Senate was authoring the 2004 law that reauthorized the National Flood Insurance Program.

At the time, I chaired this Committee's Economic Policy Subcommittee. We worked in a bipartisan way to improve the program, including incentives for communities and homeowners to mitigate flooding risk when properties have a history of serious and repeated flood damage. And we provided long-term certainty for the program for property owners, communities, and lenders.

Thankfully, my bill ensured that the flood insurance program was in place before the Katrina disaster hit. Unfortunately, the law I wrote expired in September of 2008, and since then, Congress has extended the program for only short periods of time.

The program has lapsed twice this year, mainly because Congress could not manage deadlines and short-term extensions were held hostage in bills that were controversial.

Last night, the Senate passed yet another extension of the flood insurance program, this time through September 30, 2011. If Congress does not complete action on it, the program will lapse again next week.

We simply cannot keep kicking the can down the road. It is not fair to property owners or to taxpayers.

There are several issues with flood insurance that are crying for reform. Many people covered by the program are not paying premiums that bear any relationship to their actual risk of flood damage, and other property owners and taxpayers are subsidizing them. Flood maps need to be updated. The program also owes $18.8 billion to the Treasury, with interest, which is not sustainable.

The Senate passed a bipartisan reauthorization of the program in the last Congress that would make several improvements, but it died from inaction.

Reform and long-term renewal of the program is long overdue. I hope this hearing moves us closer to a more stable and rational flood insurance program.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF SENATOR RICHARD J. DURBIN

Chairman Dodd, Senator Shelby, and Members of the Banking Committee, thank you for this opportunity to testify on the importance of the National Flood Insurance Program.

I would like to limit my testimony to one important issue—FEMA's flood mapping program. This program is well underway in Illinois and has affected thousands of homeowners and businesses in my State.

Metro East

As you know, FEMA is currently updating outdated floodplain maps across the country.

The Metro East St. Louis area was one of the first areas in the country to undergo this floodplain map modernization process. The greater Metro East area is home to 150,000 people and dozens of historic communities, including East St. Louis, where I was born and raised.

In early 2007, FEMA informed the Illinois levee districts in Metro East that their levees were not strong enough to be certified against a 100-year flood event. This lack of accreditation by FEMA means that tens of thousands of homeowners will soon find themselves living in a floodplain. This floodplain designation will also require these property owners to purchase flood insurance.

FEMA originally decided to update flood maps on the Illinois side of the river only. The Missouri side of the river was not scheduled to undergo the new mapping process until well after the Illinois side was completed.

Mapping on a Watershed Basis

With your help, language was included in the Fiscal Year 2009 Continuing Appropriations bill that aligned the mapping process for both sides of the Mississippi river.

As the Committee develops its bill to reauthorize reform the flood insurance program, I would encourage you to consider directing FEMA to undertake its mapping process on a watershed basis. Floodwaters do not stop at county or State lines and FEMA should recognize this by mapping watershed by watershed.

Mandatory Flood Insurance

Floodplain designations by FEMA will require homeowners to purchase flood insurance. In Metro East Illinois, up to 30,000 new properties will be affected by this requirement. These individuals have lived in the same location for many years outside of a floodplain.

Current law will require most of these homeowners to purchase flood insurance immediately after the new flood maps become effective. This could lead to an additional $2,500 per year on each mortgage. This sudden spike in costs is especially problematic for many of my constituents in Illinois who have struggled to make ends meet in this economy.

Phasing in the New Expense

The House-passed flood insurance reauthorization bill includes a provision that would delay the mandatory flood insurance purchase requirement for 5 years in areas like Metro East, where new flood maps are being implemented.

This delay would be followed by a 5-year period where insurance rates would be phased in incrementally. This additional time would be especially helpful for places like Metro East St. Louis, where the local community has developed an aggressive plan to upgrade the levees to ensure protection against a 100 year flood event.

The three counties affected in Illinois have imposed a sales tax that will generate $10 million per year to be used on levee upgrades and improvements. The levee rebuilding project is expected to take 5 years and ultimately deliver protection to the businesses and homes behind the levees.

I encourage you to include the House-passed provision in your version of a Flood Insurance Reauthorization bill. This provision will give communities time to fully understand the new flood risk shown by these modern flood maps while giving temporary relief to homeowners and businesses.

Outreach and Education Are Critical

I would encourage you to delay this mandatory requirement only in special circumstances. Temporarily lifting the flood insurance requirement should only be offered to communities that have done extraordinary outreach to provide flood risk information to residents in these newly mapped floodplains.

Homeowners need to understand they are at risk. Levees do not provide 100 percent protection, and having federally backed flood insurance can help you rebuild your home and protect your mortgage if a disaster strikes. Even though flood insurance may not be required, it is important homeowners living in floodplains protect themselves with insurance.

Unfortunately, even though flood insurance is required for everyone with a federally backed mortgage, compliance rates are very low in the Midwest. Recent research has shown only 20 percent of properties in a 100-year flood plain in the Midwest carry national flood insurance policies.

Something needs to be done encourage these homeowners to protect themselves. Extensive outreach combined with offering flood insurance at preferred risk rates or lower may incentivize more people to carry flood insurance than even mandating the purchase itself.

Senator Wicker has suggested offering long-term flood insurance policies to increase compliance rates. This is an idea advocated for by many academics and I encourage you to give that proposal consideration too.

Conclusion

In summary, as you craft your Committee's version of flood insurance legislation, I encourage you to include language to achieve the following goals:

- Ensure FEMA updates flood maps on a watershed basis;
- Delay the effective date for the mandatory purchase of flood insurance for areas that have been newly mapped into a floodplain;
- Phase-in flood insurance rates for newly mapped areas over 5 years.
- Require FEMA, State, and local governments to undertake extraordinary outreach to homeowners to make sure they understand their risk and the consequences of not carrying flood insurance; and
- Offer deeply discounted rates to newly mapped properties to increase the number of homeowners carrying flood insurance.

Thank you for the opportunity to address this Committee about this important issue.

PREPARED STATEMENT OF SENATOR ROGER F. WICKER

Thank you, Chairman Dodd and Ranking Member Shelby. I appreciate your holding this hearing, and I am grateful for the Committee giving me the opportunity to appear today as a witness on the reauthorization of the National Flood Insurance Program.

In this year alone, the National Flood Insurance Program (NFIP) has lapsed three times, creating uncertainty and unnecessary problems for property owners who rely on the NFIP for flood insurance. These lapses drive up the costs of administering the program and delay purchases for properties that require flood insurance prior to closing. I am glad that the Senate voted last night by unanimous consent to extend the NFIP through September of next year. However, in talking with Mississippians, it is clear that the NFIP needs to be reauthorized on a long-term basis and in a way that addresses some of the unique challenges that residents along coastal areas face.

Although it has been 5 years since Hurricane Katrina made landfall, we are still rebuilding on the Mississippi Gulf Coast. The storm may have passed but remnants of Katrina remain. One of the greatest examples of Katrina's lingering effects—and one of the biggest impediments to our rebuilding efforts—is the lack of affordable insurance. Not only is access to affordable insurance a challenge in Mississippi, but it is also a problem from Texas, down to the tip of Florida, and on up through the New England coastal States. The affordability and availability of wind insurance is crucial in any State where there is coastal exposure.

Last month, there were many speeches commemorating the anniversary of Hurricane Katrina and the incredible progress that many States have made since the destructive storm hit. The numerous ribbon cutting ceremonies of new businesses, homes, and developments demonstrated the remarkable work of the Gulf Coast communities in our efforts to rebuild. As we celebrated this progress and the resilience of Mississippians, we also recognized that there is more work that needs to be done to better prepare us for another Katrina. One of the best things that Congress could do for the Gulf Coast region—not just in my State of Mississippi, but in all of the Gulf Coast States—is to resolve the nuances associated with insuring against hurricanes.

For all practical purposes, private insurance coverage for wind damage is no longer available in the Gulf Coast area since the aftermath of Hurricane Katrina.

Before the storm, the wind peril was typically insured by basic hazard insurance policies with the exception of those living on the beach itself. Today, in most of coastal Mississippi, individuals have to purchase wind coverage through the State-run windpool. State windpools were originally designed to be the insurer of last resort. However, in recent years, State windpools have unfortunately become the rule, not the exception.

In 2008, I attempted to address this problem by offering an amendment that would have added wind coverage to the National Flood Insurance Program on a voluntary basis. This multiperil insurance concept passed the House of Representatives last Congress but failed in the Senate. I understand the arguments on both sides of the multiperil debate, but I believe using such an approach would address the basic flaw in the current insurance system. And that flaw is this: it takes two kinds of insurance to cover a hurricane—flood insurance through the NFIP and very expensive wind insurance through either the windpool or private coverage.

After Hurricane Katrina, many property owners were forced to go to court to decide who was responsible for the damage, even if they had all the necessary insurance policies. Other property owners had not purchased flood insurance because they relied on the Federal flood zone maps. When their property was damaged by the storm, the wind insurance adjusters denied claims, ruling that the damage had been caused by water alone.

I recently introduced the Coordination of Wind and Flood Perils Act. This legislation, S. 3672, addresses some of the lessons learned following the wind *versus* water dispute that occurred after Hurricane Katrina. Individuals who had all the appropriate insurance—wind and water policies—were, in many instances, caught in the middle and forced to go to court to watch the insurers fight amongst themselves before they could be indemnified for their loss. The legislation I introduced would remove the property owner from this debate and put the burden where it belongs—on the insurers. The insurance industry already does this for many other types of losses. If there is a dispute, the damages would be split evenly between the insurers so the property owner would be compensated in a timely manner. Then, the insurers would appear before an arbitration panel, and the panel's decision would be binding.

There are a few other lessons learned after Katrina and observations I would make about the National Flood Insurance Program:

1. After Hurricane Katrina, we learned that flood hazard risk in many coastal areas of Mississippi, and other parts of the country, was not accurately reflected by FEMA's flood insurance maps. As a result, property owners outside of the flood zones had no NFIP coverage. With only wind insurance coverage, these individuals were not properly insured for a hurricane. Since property owners rely heavily upon this information, I hope the Congress can continue to work with FEMA to ensure these maps are accurately updated for all residents.
2. FEMA and many banks do a poor job of enforcing the flood insurance requirement. Under the Flood Disaster Protection Act of 1973, the purchase of flood insurance is mandatory in flood zones if the consumer is using a federally regulated lender. However, there is a breakdown with the enforcement of this requirement. According to the Congressional Research Service, at least eight Federal agencies or Government Sponsored Enterprises are responsible for enforcing this requirement. Recently, the Wharton School of the University of Pennsylvania surveyed insurance coverage among property owners impacted by a flood in Vermont. The study revealed that 45 percent of the victims of the flood who were required to have flood insurance did not purchase it. With regard to private insurance, lenders do a much better job of enforcing insurance requirements. If a homeowner stops paying his premium, the bank will purchase homeowners' insurance for him. However, as clearly documented by the Wharton study, regulators and lenders routinely fail to enforce the mandate enacted in the Flood Disaster Protection Act. I hope the Committee will further investigate this issue and report its findings.
3. Rates should be actuarially sound and meaningful premium reductions should be offered for mitigation improvements. I encourage this Committee to study the work done by the Wharton School in this area. These scholars propose linking the NFIP policy to the mortgage, which would create a long-term insurance policy tied to the length of the mortgage and to the property itself. Having a long-term policy tied to the property is one way to limit NFIP cancellations. This proposal also would give meaningful premium reductions for mitigation improvements. When property owners know they can save money year after year by strengthening their homes above building code requirements, they will have a powerful incentive to do so.

Another proposal I would encourage this Committee to consider is the Travelers Coastal Wind Zone Plan. This proposal would create an independent Federal commission to establish standards for the wind peril in coastal areas. The Travelers' plan allows insurance companies to purchase reinsurance from the Federal Government to cover losses resulting from extreme events. In addition, like the Wharton plan, the Travelers' plan calls for meaningful premium reductions for mitigation improvements.

Al Goodman, the Mississippi State Floodplain Manager, wrote to me this week and reminded me that major flood disasters have often led to changes in the law. For example, Hurricane Agnes in 1972 resulted in the Flood Disaster Protection Act of 1973; flooding on the Mississippi River in 1993 prompted the National Flood Insurance Reform Act of 1994; and the Flood Insurance Reform Act of 2004 was influenced by Hurricanes Andrew and Isabel.

Earlier this year, the *Sun Herald,* a Mississippi Gulf Coast newspaper, wrote in an editorial: " . . . better protection for all Americans living within harm's way of a hurricane would be Katrina's greatest legacy." I agree. Five years after Katrina, Congress still has an opportunity to make sure affordable wind and water coverage can be provided to the millions of Americans in coastal areas of our country.

Thank you.

PREPARED STATEMENT OF ORICE WILLIAMS BROWN

DIRECTOR OF THE OFFICE OF FINANCIAL MARKETS AND COMMUNITY INVESTMENT, GOVERNMENT ACCOUNTABILITY OFFICE

SEPTEMBER 22, 2010

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Testimony
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NATIONAL FLOOD INSURANCE PROGRAM

Continued Actions Needed to Address Financial and Operational Issues

Statement of Orice Williams Brown, Director
Financial Markets and Community Investment

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Chairman Dodd, Ranking Member Shelby, and Members of the Committee:

I appreciate the opportunity to participate in today's hearing on the National Flood Insurance Program (NFIP) and the challenges that the Federal Emergency Management Agency (FEMA) faces in administering it. As you know, NFIP is a key component of the federal government's efforts to minimize the damage and financial impact of floods and is the only source of insurance against flood damage for most residents in flood-prone areas. GAO placed NFIP on its high-risk list in March 2006, not only because of the program's potential to incur billions of dollars in losses and the many financial challenges it faces, but also because of operational and management challenges within FEMA, many of which we have identified in previous reports to Congress.

As of August 2010, NFIP owed approximately $18.8 billion to the Department of the Treasury (Treasury), primarily as a result of loans the program received to pay claims from the 2005 hurricane season. NFIP borrowed additional funds from Treasury to make interest payments on this debt and is unlikely ever to be able to repay the entire amount. These revenue shortfalls reflect both the devastating effects of catastrophic hurricanes and structural weaknesses in the way the program is funded. Our previous reports identified many of these weaknesses, including subsidized premium rates, rate-setting methods that do not reflect the actual risk of losses due to flooding, and claims arising from a small, but growing number of repetitive loss properties.[1] We have also previously identified management issues, particularly with respect to FEMA's oversight of write-your-own (WYO) insurers. We are currently conducting a comprehensive review of NFIP management and other ongoing challenges that FEMA faces in administering the program as well as a review of the NFIP mapping program.

My testimony today will revisit and update the challenges we identified in previous reports, specifically (1) NFIP's financial challenges, (2) FEMA's operational and management challenges relating to NFIP, and (3) actions needed to address these challenges. My statement is based largely on completed work on the oversight of the WYO program, the financial impact of subsidized premium rates, and the rate-setting process for flood insurance premiums. We performed our work in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[1]Repetitive loss properties are properties that have had two or more paid NFIP claims in a 10-year period.

Summary

Congress and FEMA intended that the NFIP's operating expenses and flood insurance claims would be paid with premiums collected by the program rather than with tax dollars. But the program is, by design, not actuarially sound, for several reasons. First, NFIP does not operate like private insurance companies. For example, FEMA is not structured to build a capital surplus, is likely unable to purchase reinsurance to cover high or catastrophic losses, cannot accept or reject applicants to help manage risk, and is subject to statutory limits on rate increases. Second, many property owners pay premium rates that do not reflect the full, long-term risk of flooding. Almost 25 percent of property owners pay subsidized premium rates, and even "full-risk" premium rates may not reflect the actual risk of flooding. Further, NFIP allows some property owners to continue to pay rates that do not reflect reassessments of their properties' flood risk ("grandfathered rates"). Finally, NFIP must continue to insure repetitive loss properties, which represent only 1 percent of flood insurance policies but account for 25 to 30 percent of claims. FEMA has taken some encouraging steps toward improving its financial position, including making nearly $600 million in payments to the U.S. Treasury since March 2009 without increasing its borrowing. In addition, according to FEMA data, as of June 2010 it has also increased its amount of collected premiums by approximately 24 percent since December 2006 and the NFIP policy base by more than 24 percent since 2004, when FEMA began its FloodSmart program.[2]

[2]FloodSmart is an integrated mass marketing campaign FEMA launched in 2004 to educate the

Several operational and management issues may limit FEMA's progress in addressing NFIP's financial challenges and achieving the program's goals. For example, WYO insurers play a key role in NFIP operations and payments to them represent from one-third to two-thirds of premiums received. But in previous reports we found that, among other internal control weaknesses, FEMA did not systematically consider actual flood insurance expense information when determining payments to WYO insurers, had not aligned its WYO bonus structure with NFIP's goals, and had not implemented many of its planned financial controls for the WYO program.[3] Further, contractors other than WYO insurers are responsible for performing key NFIP functions, such as collecting NFIP data and marketing the program. However, we have also found problems with oversight of these contractors. Specifically, FEMA did not consistently follow its procedures for monitoring contractors, did not always coordinate contract monitoring responsibilities among various agency departments on some of the contracts we reviewed, lacked contract monitoring records, and did not have a system in place that would allow various departments to share information relating to contractor deficiencies. Further, preliminary results of our ongoing work reveal that FEMA continues to lack an effective system to manage flood insurance policy and claims data, despite having invested roughly 7 years and

public about the risks of flooding and to encourage the purchase of flood insurance.

[3]See GAO, *Flood Insurance: Opportunities Exist to Improve Oversight of the WYO Program*, GAO-09-455 (Washington, D.C.: Aug. 21, 2009).

$40 million in a new system whose development has been halted because it did not meet user needs and was not ready to replace the legacy system.

Addressing the financial and operational challenges facing NFIP would require actions from both Congress and FEMA. We recognize that any such actions would involve significant trade-offs and that some financial challenges would be difficult to remedy. For instance, possible reform options to make premium rates more reflective of long-term flood risks include eliminating, reducing, or targeting premium subsidies based on need. But taking any of these steps would raise rates and potentially reduce participation in NFIP. FEMA and Congress could also address the impact of repetitive loss properties by expanding mitigation efforts to target those properties that are at highest risk.[4] However, doing so would include actions such as elevation, relocation, and demolition that would be costly to taxpayers and could take years. Congress could also amend laws regarding coverage for homeowners who refuse to mitigate, and streamline the various mitigation grant programs within FEMA. In our past work, we also identified a number of management challenges that FEMA would have to address, including improvements to oversight of WYO insurers and its payments to them, updating the NFIP rate-setting process, fully applying internal controls, and strengthening oversight of contractors, among others.

[4]Mitigation involves taking steps to reduce a property's flood risk—for example, elevating a house above a certain flood level.

Background

The National Flood Insurance Act of 1968 established NFIP as an alternative to providing direct assistance after floods.[5] NFIP, which provides government-guaranteed flood insurance to homeowners and businesses, was intended to reduce the federal government's escalating costs for repairing flood damage after disasters. FEMA, which is within the Department of Homeland Security (DHS), is responsible for the oversight and management of NFIP. Since NFIP's inception, Congress has enacted several pieces of legislation to strengthen the program. The Flood Disaster Protection Act of 1973 made flood insurance mandatory for owners of properties in vulnerable areas who had mortgages from federally regulated lenders and provided additional incentives for communities to join the program.[6] The National Flood Insurance Reform Act of 1994 strengthened the mandatory purchase requirements for owners of properties located in special flood hazard areas (SFHA) with mortgages from federally regulated lenders.[7] Finally, the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 authorized grant programs to mitigate properties that

[5]Pub. L. No. 90-448, Title XIII, 82 Stat. 476 (1968).

[6]Pub. L. No. 93-234, §102, 87 Stat. 975, 978 (1973).

[7]Pub. L. No. 103-325, 108 Stat. 2255 (1994).

experienced repetitive flooding losses. Owners of these repetitive loss properties who do not mitigate face higher premiums.[8]

To participate in NFIP, communities agree to enforce regulations for land use and new construction in high-risk flood zones and to adopt and enforce state and community floodplain management regulations to reduce future flood damage. Currently, more than 20,000 communities participate in NFIP. NFIP has mapped flood risks across the country, assigning flood zone designations based on risk levels, and these designations are a factor in determining premium rates. NFIP offers two types of flood insurance premiums: subsidized and full-risk. The National Flood Insurance Act of 1968 authorizes NFIP to offer subsidized premiums to owners of certain properties. These subsidized premium rates, which represent about 35 to 40 percent of the cost of covering the full risk of flood damage to the properties, account for about 22 percent of all NFIP policies as of September 2010. To help reduce or eliminate the long-term risk of flood damage to buildings and other structures insured by NFIP, FEMA has used a variety of mitigation efforts such as elevation, relocation, and demolition. Despite these efforts, the inventories of repetitive loss properties and policies with subsidized premium rates have continued to grow. In response to the magnitude and severity of the losses from the 2005 hurricanes, Congress increased NFIP's borrowing authority from the Treasury to $20.775 billion. As

[8]Pub. L. No. 108-264, §§ 102, 104, 118 Stat. 712, 714, 722 (2004).

of August 2010, FEMA owed Treasury $18.8 billion, and the program as currently designed will likely not generate sufficient revenues to repay this debt.

NFIP's Financial Challenges Have Increased the Federal Government's and U.S. Taxpayers' Financial Exposure from Flood Losses

By design, NFIP is not an actuarially sound program, in part because it does not operate like many private insurance companies. As a government program, its primary public policy goal is to provide flood insurance in flood-prone areas to property owners who otherwise would not be able to obtain it. Yet NFIP is also expected to cover its claims losses and operating expenses with the premiums it collects, much like a private insurer. In years when flooding has not been catastrophic, NFIP has generally managed to meet these competing goals. In years of catastrophic flooding, however, and especially during the 2005 hurricane season, it has not.

NFIP's operations differ from those of most private insurers in a number of ways. First, it operates on a cash-flow basis and has the authority to borrow from Treasury. As of August 2010, NFIP owed approximately $18.8 billion to Treasury, primarily as a result of loans that the program received to pay claims from the 2005 hurricane season. NFIP will likely not be able to meet its interest payments in most years, and the debt may continue to grow as the program may need to borrow to meet the interest payments in some years and potential future flood losses. Also unlike private insurance companies, NFIP assumes all the risk for the policies it sells. Private insurers typically retain only part of the risk that they accept from policyholders, ceding a portion of the risk to reinsurers (insurance for insurers). This mechanism is particularly important in the case of insurance for catastrophic events, because the availability of reinsurance allows an insurer to limit the possibility that it will experience losses beyond its ability to pay. NFIP's lack of reinsurance, combined with the lack of structure to build a capital surplus, transfers much of the financial risk of flooding to Treasury and ultimately the taxpayer.

NFIP is also required to accept virtually all applications for insurance, unlike private insurers, which may reject applicants for a variety of reasons. For example, FEMA cannot deny insurance on the basis of frequent losses. As a result, NFIP is less able to offset the effects of adverse selection—that is, the phenomenon that those who are most likely to purchase insurance are also the most likely to experience losses. Adverse selection may lead to a concentration of policyholders in the riskiest areas. This problem is further compounded by the fact that those at greatest risk are required to purchase insurance from NFIP if they have a mortgage from a federally regulated lender. Finally, by law, FEMA is prevented from raising rates on each flood zone by more than 10 percent each year. While most states regulate premium prices for private insurance companies on other lines of insurance, they generally do not set limits on premium rate increases, instead focusing on whether the resulting premium rates are justified by the projected losses and expenses.

NFIP's Premium Rates Do Not Reflect the Full Risk of Flooding

As we have seen, NFIP does not charge rates that reflect the full risk of flooding. NFIP could be placed on a sounder fiscal footing by addressing several elements of its premium structure. For example, as we have pointed out in previous reports, NFIP provides subsidized and grandfathered rates that do not reflect the full risk of potential flood losses to some property owners, operates in part with unreliable and incomplete data on flood risks that make it difficult to set accurate rates, and has not been able to overcome the challenge of repetitive loss properties.[9] Subsidized rates, which are required by law, are perhaps the best-known example of premium rates that do not reflect the actual risk of flooding. These rates, which were authorized from when the program began, were intended to help property owners during the transition to full-risk rates. But today, nearly one out of four NFIP policies continues to be based on a subsidized rate. These rates allow policyholders with structures that were built before floodplain management regulations were established in their communities to pay premiums that represent about 35 to 40 percent of the actual risk premium. Moreover, FEMA estimates that properties covered by policies with subsidized rates experience as much as five times more flood damage than compliant new structures that are charged full-risk rates. As we have pointed out, the number of

[9] See GAO, *Flood Insurance: FEMA's Rate-Setting Process Warrants Attention*, GAO-09-12 (Washington, D.C.: Oct. 31, 2008); and *Flood Insurance: Options for Addressing the Financial Impact of Subsidized Premium Rates on the National Flood Insurance Program*, GAO-09-20 (Washington, D.C.: Nov. 14, 2008).

policies receiving subsidized rates has grown steadily in recent years and without changes to the program will likely continue to grow, increasing the potential for future NFIP operating deficits.

Further, potentially outdated and inaccurate data about flood probabilities and damage claims, as well as outdated flood maps, raise questions about whether full-risk premiums fully reflect the actual risk of flooding. First, some of the data used to estimate the probability of flooding have not been updated since the 1980s. Similarly, the claims data used as inputs to the model may be inaccurate because of incomplete claims records and missing data. Further, some of the maps FEMA uses to set premium rates remain out of date despite recent modernization efforts. For instance, as FEMA continues these modernization efforts, it does not account for ongoing and planned development making some maps outdated shortly after their completion. Moreover, FEMA does not map for long-term erosion, further increasing the likelihood that data used to set rates are inaccurate. FEMA also sets flood insurance rates on a nationwide basis, failing to account for many topographic factors that are relevant to flood risk for individual properties. Some patterns in historical claims and premium data suggest that NFIP's rates may not accurately reflect individual differences in properties' flood risk. Not accurately reflecting the actual risk of flooding increases the risk that full-risk premiums may not be sufficient to cover future losses and add to concerns about NFIP's financial stability.

As mentioned earlier, we are currently reviewing FEMA's flood mapping program. Specifically, we are trying to determine the extent to which FEMA ensures that flood maps accurately reflect flood risk and the methods FEMA uses to promote community acceptance of flood maps. We plan to issue this report in December 2010.[10]

Further contributing to NFIP's financial challenges, FEMA made a policy decision to allow certain properties remapped into riskier flood zones to keep their previous lower rates. Like subsidized rates, these "grandfathered" rates do not reflect the actual risk of flooding to the properties and do not generate sufficient premiums to cover expected losses. FEMA officials told us that the decision to grandfather rates was based on considerations of equity, ease of administration, and goals of promoting floodplain management. However, FEMA does not collect data on grandfathered properties or measure their financial impact on the program. As a result, it does not know how many such properties exist, their exact location, or the volume of losses they generate. FEMA officials stated that beginning in October 2010 they would indicate on all new policies whether or not they were grandfathered. However, they would still be unable to identify grandfathered properties among existing policies. As FEMA continues its efforts to modernize flood maps across the country, it has continued

[10]This work is being done at the request of the Chairman of the Subcommittee on Economic Policy, Senator Sherrod Brown, and Senators Charles E. Schumer and Jeff Bingaman.

to face resistance from communities and homeowners when remapping properties into higher-risk flood zones with higher rates. As a result, FEMA has often grandfathered in previous premium rates that are lower than the remapped rates. However, homeowners who are remapped into high-risk areas and do not currently have flood insurance may be required to purchase it at the full risk rate.

In reauthorizing NFIP in 2004, Congress noted that repetitive loss properties—those that have had two or more flood insurance claims payments of $1,000 or more over 10 years—constituted a significant drain on NFIP resources. These properties account for about 1 percent of all policies but are estimated to account for up to 30 percent of all NFIP losses. Not all repetitive loss properties are part of the subsidized property inventory, but a high proportion receive subsidized rates, further contributing to NFIP's financial risks. While Congress has made efforts to target these properties, the number of repetitive loss properties has continued to grow, making them an ongoing challenge to NFIP's financial stability.

Despite Its Financial Challenges, NFIP Has Experienced Some Positive Developments

According to FEMA, expanded marketing efforts through its FloodSmart campaign have contributed to an increase in NFIP policies. This program was designed to educate and inform partners, stakeholders, property owners, and renters about insuring their homes and businesses against flood damage. Since the start of the FloodSmart campaign in 2004, NFIP has seen policy growth of more than 24 percent, and as of June 2010, had 5.6 million policies in force. Moreover, according to FEMA, despite the economic downturn, both policy sales and retention have grown. In addition, NFIP's collected premiums have risen 24 percent from December 2006 to June 2010. This increase, combined with a relatively low loss experience in recent years, has enabled FEMA to make nearly $600 million in payments to Treasury with no additional borrowing since March 2009. FEMA has also adjusted its expense reimbursement formula. While these are all encouraging developments, FEMA is still unlikely to ever pay off its current $18.8 billion debt.

FEMA's Operational and Management Issues May Further Limit Progress in Achieving NFIP Goals

We have identified a number of operational issues that affect NFIP, including weaknesses in FEMA's oversight of WYO insurers, and shortcomings in its oversight of other contractors, as well as new issues from ongoing work. For example, we found that FEMA does not systematically consider actual flood insurance expense information when determining the amount it pays WYO insurers for selling and servicing flood insurance policies and adjusting claims. Instead, FEMA has used proxies, such as average industry operating expenses for property insurance, to determine the rates at which it pays these insurers, even though their actual flood insurance expense information has been available since 1997. Because FEMA does not systematically consider these data when setting its payment rates, it cannot effectively estimate how much insurers are spending to carry out their contractual obligations to FEMA. Further, FEMA does not compare the WYO insurers' actual expenses to the payments they receive each year and thus cannot determine whether the payments are reasonable in terms of expenses and profits. When GAO compared payments FEMA made to six WYO insurers to their actual expenses for calendar years 2005 through 2007, we found that the payments exceeded actual expenses by $327.1 million, or 16.5 percent of total payments made. By considering actual expense information, FEMA could provide greater transparency and accountability over payments to the WYO insurers and potentially save taxpayers' funds.

FEMA also has not aligned its bonus structure for WYO insurers with NFIP goals such as increasing penetration in low-risk flood zones and among homeowners in all zones that do not have mortgages from federally regulated lenders. FEMA uses a broad-based distribution formula that primarily rewards companies that are new to NFIP, and can relatively easily increase their percentage of net policies from a small base. We also found that most WYO insurers generally offered flood insurance when it was requested but did not strategically market the product as a primary insurance line. FEMA has set only one explicit marketing goal—to increase policy growth by 5 percent each year—and does not review the WYO insurers' marketing plans. It therefore lacks the information needed to assess the effectiveness of either the WYO insurers' efforts to increase participation or the bonus program itself. For example, FEMA does not know the extent to which sales increases may reflect external factors such as flood events or its own FloodSmart marketing campaign rather than any effort on the part of the insurers. Having intermediate targeted goals could also help expand program participation, and linking such goals directly to the bonus structure could help ensure that NFIP and WYO goals are in line with each other.

Finally, FEMA has explicit financial control requirements and procedures for the WYO program but has not implemented all aspects of its Financial Control Plan. FEMA's Financial Control Plan provides guidance for WYO insurers to help ensure compliance with the statutory requirements for NFIP. It contains several checks and balances to help ensure that taxpayers' funds are spent appropriately. For an earlier report, we reviewed 10 WYO insurers and found that while FEMA performed most of the required biennial audits and underwriting and claims reviews required under the plan, it rarely or never implemented most of the required audits for cause, reviews of state insurance department audits, or marketing, litigation, and customer service operational reviews.[11] In addition, FEMA did not systematically track the outcomes of the various audits, inspections, and reviews that it performed. We also found that multiple units had responsibility for helping ensure that WYO insurers complied with each component of the Financial Control Plan; that FEMA did not maintain a single, comprehensive monitoring system that would allow it to ensure compliance with all components of the plan; and that there was no centralized access to all of the documentation produced. Because FEMA does not implement all aspects of the Financial Control Plan, it cannot ensure that WYOs are fully complying with program requirements.

In another review, we found that weak internal controls impaired FEMA's ability to maintain effective transaction-level accountability with WYO insurers from fiscal years 2005 through 2007, a period that included the financial activity related to the 2005 Gulf Coast hurricanes.[12] NFIP had limited assurance that its financial data for fiscal years 2005 to 2007 were accurate. This impaired data reliability resulted from weaknesses at all three levels of the NFIP transaction accountability and financial reporting process. At the WYO level, WYO insurer claims loss files

[11]See GAO-09-455.

[12]See GAO, *Financial Management: Improvements Needed in National Flood Insurance Program's Financial Controls and Oversight*, GAO-10-66 (Washington, D.C.: Dec. 22, 2009).

did not include the documents necessary to support the claims, and some companies filed reports late, undermining the reliability of the data they did report. Second, contractor-level internal control activities were ineffective in verifying the accuracy of the data that WYO insurers submitted, such as names and addresses. Lastly, at the agency level, financial reporting process controls were not based on transaction-level data. Instead FEMA relied primarily on summary data compiled using error-prone manual data entry.

FEMA's Oversight of Non-WYO Contractor Activities Is Also Lacking

Also in a previous report, we pointed out that FEMA lacked records of monitoring activities for other contractors, inconsistently followed its procedures for monitoring these contractors, and did not coordinate contract monitoring responsibilities for the two major contracts we reviewed.[13] At FEMA, a Contracting Officer's Technical Representative (COTR) and staff (referred to as "monitors") are responsible for, respectively, ensuring compliance with contract terms and regularly monitoring and reporting on the extent to which NFIP contractors meet standards in performance areas specified in the contracts. Internal control standards for the federal government state that records should be properly managed and maintained. But FEMA lacked records for the majority of the monitoring reports we requested and did not consistently follow the

[13]See GAO, *National Flood Insurance Program: Financial Challenges Underscore Need for Improved Oversight of Mitigation Programs and Key Contracts*, GAO-08-437 (Washington, D.C.: Jun. 16, 2008).

monitoring procedures for preparing, reviewing, and maintaining monitoring reports.

Further, FEMA offices did not coordinate information and actions relating to contractors' deficiencies and payments, and in some cases key officials were unaware of decisions on contractors' performance. In particular, our review of monitoring reports for one contract revealed a lack of coordination between the COTR and the contracting officer. As a result, FEMA could not ensure that the contractor had adhered to the contract's requirements and lacked information critical to effective oversight of key NFIP data collection, reporting, and insurance functions. Given NFIP's reliance on contractors, it is important that FEMA have in place adequate controls that are consistently applied to all contracts. Consistent with our findings in prior work, the DHS inspector general has also identified weaknesses in FEMA's internal controls and financial reporting related to the NFIP.[14]

Our ongoing work reviewing FEMA's management of NFIP identifies a number of steps that FEMA has taken that are designed to improve the agency's oversight of contractors. These efforts include the implementation of an

[14]See Department of Homeland Security, Office of the Inspector General, *Independent Auditor's Report on DHS' FY 2009 Financial Statements and Internal Control over Financial Reporting*, DHS-OIG-10-11 (Washington, D.C.: Nov. 13, 2009).

acquisition review board and the creation of a handbook for COTRs. While these are positives steps, not enough time has passed to evaluate their effectiveness.

FEMA Continues to Lack an Effective System to Manage Flood Insurance Policy and Claims Data

To manage the flood policy and claims information that it obtains from insurance companies, NFIP's Bureau and Statistical Agent (BSA) relies on a flood insurance management system from the 1980s that is difficult and costly to sustain and that does not adequately support NFIP's mission needs. This system consists of over 70 interfaced applications that utilize monthly tape and batch submissions of policy and claims data from insurance companies. The system also provides limited access to NFIP data. Further, identifying and correcting errors in submission requires between 30 days and 6 months and the general claims processing cycle itself is 2 to 3 months.

To address the limitations of this system, NFIP launched a program in 2002 to acquire and implement a modernization and business improvement system, known as NextGen. As envisioned, NextGen was to accelerate updates to information obtained from insurance companies, identify errors before flood insurance policies went into effect, and enable FEMA to expedite business transactions and responses to NFIP claims when policyholders required urgent support. As such, the system would support the needs of a wide range of NFIP stakeholders, including FEMA headquarters and regional staff, WYO insurers, vendors, state hazard mitigation officers, and NFIP state coordinators.

As part of our ongoing review of FEMA's management of NFIP, we found that despite having invested roughly $40 million over 7 years, FEMA has yet to implement NextGen. Initial versions of NextGen were first deployed for operational use in May 2008. However, shortly thereafter system users reported major problems with the system, including significant data and processing errors. As a result, use of NextGen was halted, and the agency returned to relying exclusively on its mainframe-based legacy system while NextGen underwent additional testing. In late 2009, after this testing showed that the system did not meet user needs and was not ready to replace the legacy system, further development and deployment of NextGen was stopped, and FEMA's Chief Information Officer began an evaluation to determine what, if anything, associated with the system could be salvaged. This evaluation is currently under way, and a date for completing it has yet to be established. DHS and the Office of Management and Budget recently designated this effort as high-risk.

Our ongoing review of FEMA's management of NFIP includes identifying lessons learned about how NextGen was defined, developed, tested, and deployed, including weaknesses in requirements development and management, test management, risk management, executive oversight, and program office staffing that have collectively contributed to NextGen's failure. In completing its evaluation and deciding how to proceed in meeting its policy and claims processing needs, FEMA could benefit by correcting these weaknesses. In the interim, the agency continues to rely on its outdated legacy system, and thus does not have the kind of robust analytical support and information needed to help address the reasons that NFIP remains on GAO's high-risk list of federal programs.

Addressing NFIP's Challenges Would Require Actions from FEMA and Congress

To address the challenges NFIP faces, FEMA would have to address its own operational and management challenges. Further, legislative reform would be needed to address structural issues. However, as you know, addressing many of these issues involves public policy trade-offs that would have to be made by Congress. In July 2010 the House of Representatives passed the Flood Insurance Reform Priorities Act, which if enacted would make a number of changes to NFIP.[15] Moreover, part of this process requires determining whether NFIP is or should be structured as an insurance program and how much liability the government can and is willing to accept. For example, if Congress wants to structure NFIP as an insurance company and limit borrowing from Treasury in future high- or catastrophic loss years, NFIP would have to build a capital surplus fund. Our prior work has shown that building such a fund would require charging premium rates that, in some cases, could be more than double or triple current rates and would take a number of years without catastrophic losses to implement. Additionally, while private insurers generally use reinsurance to hedge their risk of catastrophic losses, it is unclear whether the private reinsurance market would

[15] H.R. 5114, Flood Insurance Reform Priorities Act of 2010, 111th Cong., 2nd Sess.

be willing to offer coverage to NFIP. In the absence of reinsurance and a surplus fund, Treasury will effectively continue to act as the reinsurer for NFIP and be the financial backstop for the program.

Premium Rates Could Be Made More Reflective of Flood Risk

Making premium rates more reflective of flood risk would require actions by FEMA and Congress. Because subsidized premium rates are required by law, addressing their associated costs would require congressional action. As previously reported, two potential options would be to eliminate or reduce the use of subsidies over time, or target them based on need. However, these options involve trade-offs. For example, eliminating or reducing the subsidies would help ensure that premium rates more accurately reflect the actual risk of loss and could encourage mitigation efforts. But the resulting higher premiums could lead some homeowners to discontinue or not purchase coverage, thus reducing participation in NFIP and potentially increasing the costs to taxpayers of providing disaster assistance in the event of a catastrophe. Targeting subsidies based on need is an approach used by other federal programs and could help ensure that those needing the subsidy would have access to it and retain their coverage. Unlike other agencies that provide—and are allocated funds for—traditional subsidies, NFIP does not receive an appropriation to pay for shortfalls in collected premiums caused by its subsidized rates. However, one option to maintain the subsidies but improve NFIP's financial stability would be to rate all policies at the full-risk rate and to appropriate subsidies for qualified policyholders. In this way, the cost of such subsidies would be more transparent, and policyholders would be better informed of their flood risk. Depending on how such a program was implemented, NFIP might be able to charge more participants rates that more accurately reflect their risk of flooding. However, raising premium rates for some participants could also decrease program participation, and low-income property owners and renters could be discouraged from participating in NFIP if they were required to prove that they met the requirements for a subsidy. FEMA might also face challenges in implementing this option in the midst of other ongoing operational and management challenges.

NFIP's rate-setting process for full-risk premiums may not ensure that those premium rates reflect the actual risk of flooding and therefore may increase NFIP's financial risk. Moreover, FEMA's rate-setting process for subsidized properties depends, in part, on the accuracy of the full-risk rates, raising concerns about how subsidized rates are calculated as well. To address these concerns, we have identified actions that FEMA could take. For example, we recommended that FEMA take steps to help ensure that its rate-setting methods and the data it uses to set rates result in full-risk premium rates that accurately reflect the risk of losses from flooding. In particular, we pointed out that these steps should include verifying the accuracy of flood probabilities, damage estimates, and flood maps, and reevaluating the practice of aggregating risks across zones.

Similarly, because NFIP allows grandfathered rates for those remapped into high-risk flood zones, it would also be in the position to address some of the challenges associated with this practice. FEMA could end grandfathered rates, but it decided to allow grandfathering after consulting with Congress, its oversight committees, and other stakeholders and considering issues of equity, fairness, and the goal of promoting floodplain management. We recommended that the agency take steps both to ensure that information was collected on the location, number, and losses associated with existing and newly created grandfathered properties in NFIP and to analyze the financial impact of these properties on the flood insurance program.[16] With such information, FEMA and Congress will be better informed on the extent to which these rates contribute to NFIP's financial challenges.

Another statutory requirement that could be revisited is the 10-percent cap on rate increases. As with all the potential reform options, determining whether such action is warranted would necessitate weighing the law's benefits—including limiting financial hardship to policyholders—against the benefits that increasing or removing such limits would provide to NFIP, Treasury, and ultimately the taxpayer. However, as long as caps on rate increases remain, FEMA will continue to face financial challenges.

[16] See GAO-09-12.

Solutions for addressing the impact of repetitive loss properties would also require action by both FEMA and Congress. For example, we have reported that one option for Congress would be to substantially expand mitigation efforts and target these efforts toward the highest-risk properties.[17] Mitigation criteria could be made more stringent – for example, by requiring all insured properties that have filed two or more flood claims (even for small amounts) to mitigate, denying insurance to property owners who refuse or do not respond to a mitigation offer, or some combination of these approaches. While these actions would help reduce losses from flood damage and could ultimately limit costs to taxpayers by decreasing the number of subsidized properties, they would require increased funding for FEMA's mitigation programs, to elevate, relocate, or demolish the properties, would be costly to taxpayers, and could take years to complete. Congress could also consider changes to address loopholes in mitigation and repurchase requirements that allow policyholders to avoid mitigating by simply not responding to FEMA's requests that they do so. FEMA could be required to either drop coverage for such properties or use eminent domain to seize them if owners fail to respond to FEMA's mitigation requests.

[17] See GAO-09-20.

Moreover, Congress could streamline the various mitigation grant programs to make them more efficient and effective.[18]

FEMA Could Take Further Actions to Help Address Operational and Management Challenges

Over the last several years we have made many recommendations for actions that FEMA could take to improve its management of NFIP. FEMA has implemented some recommendations, including among other things, introducing a statistically valid method for sampling flood insurance claims for review, establishing a regulatory appeals process for policyholders, and ensuring that WYO insurance agents meet minimum education and training requirements.[19] FEMA has also taken steps to make analyzing the overall results of claims adjustments easier after future flood events. The efforts will help in determining the number and type of claims adjustment errors made and deciding whether new, cost-efficient methods for adjusting claims that were introduced after Hurricane Katrina are feasible to use after other flood events.[20] However, as mentioned previously,

[18]FEMA has five different mitigation grant programs, each with different types of requirements, purposes, and appropriations: Flood Mitigation Assistance (FMA), Repetitive Flood Claims (RFC), Severe Repetitive Loss Pilot Program (SRL), Hazard Mitigation Grant Program (HMGP), and Pre-Disaster Mitigation (PDM).

[19]See GAO, *Federal Emergency Management Agency: Improvements Needed to Enhance Oversight and Management of the National Flood Insurance Program*, GAO-06-119 (Washington, D.C.: Oct. 18, 2005).

[20]See GAO, *National Flood Insurance Program: New Processes Aided Hurricane Katrina Claims Handling, but FEMA's Oversight Should Be Improved*, GAO-07-169 (Washington, D.C.: Dec. 15, 2006).

many of our other previous recommendations have not yet been implemented. For example, we have recommended that FEMA:

- Address challenges to oversight of the WYO program, specifically the lack of transparency of and accountability for the payments FEMA makes to WYO insurers, by determining in advance the amounts built into the payment rates for estimated expenses and profit, annually analyzing the amounts of actual expenses and profit in relation to the estimated amounts used in setting payment rates, and by immediately reassessing the practice of paying WYO insurers an additional 1 percent of written premiums for operating expenses.

- Take steps to better oversee WYO insurers and ensure that they are in compliance with statutory requirements for NFIP and that taxpayers' funds are spent appropriately by consistently following the Financial Control Plan and ensuring that each component is implemented; ensuring that any revised Financial Control Plan covers oversight of all functions of participating WYO insurers, including customer service and litigation expenses; systematically tracking insurance companies' compliance with and performance under each component of the Financial Control Plan; and ensuring centralized access to all audits, reviews, and data analyses performed for each WYO insurer under the Financial Control Plan.

- Improve NFIP's transaction-level accountability and assure that financial reporting is accurate and that insurance company operations conform to program requirements by augmenting NFIP policies to require contractors to develop procedures for analyzing financial reports in relation to the transaction-level information that WYO insurers submit for statistical purposes; revising required internal control activities for contractors to provide for verifying and validating the reliability of WYO-reported financial information based on a review of a sample of the underlying transactions or events; and obtaining verification that these objectives have been met through independent audits of the WYO insurers.

- Address contract and management oversight issues that we have identified in previous reports, including determining the feasibility of integrating and streamlining numerous existing NFIP financial reporting processes to reduce the risk of errors inherent in the manual recording of accounting transactions into multiple systems; establishing and implementing procedures that require the review of available information, such as the results of biennial audits, operational reviews, and claim reinspections to determine whether the targeted audits for cause should be used; establishing and implementing procedures to schedule and conduct all required operational reviews within the prescribed 3-year period; and establishing and implementing procedures to select statistically representative samples of all claims as a basis for conducting reinspections of claims by general adjusters.

- Address challenges to oversight of contractor activities, including implementing processes to ensure that monitoring reports are submitted on time and systematically reviewed and maintained by the COTR and the Program Management Office; ensuring that staff clearly monitor each performance standard the contractor is required to meet in the specified time frames and clearly link monitoring reports and performance areas; implementing written guidance for all NFIP-related contracts on how to consistently handle the failure of a contractor to meet performance standards; establishing written policies and procedures governing coordination among FEMA officials and offices when addressing contractor deficiencies; and ensuring that financial disincentives are appropriately and consistently applied.

Building on our prior work and these recommendations, we are in the process of conducting a comprehensive review of FEMA's overall management of NFIP that could help FEMA develop a roadmap for identifying and addressing many of the root causes of its operational and management challenges. This review focuses on a wide range of internal management issues including acquisition, contractor oversight, information technology (NextGen), internal controls, human capital, budget and resources, document management, and financial management. While our work is ongoing, we have observed some positive developments in the agency's willingness to begin to acknowledge its management issues and the need to address them. FEMA has also taken steps to improve our access to key NFIP staff and information by providing us with an on-site office at one of FEMA's locations, facilitating our ability to access and review documents. In addition, in April 2010 FEMA staff initiated a meeting with GAO to discuss all outstanding recommendations related to NFIP and the actions they planned to take to address them. We are in the process of obtaining and evaluating documentation related to these actions.

Recent Proposals Could Provide Some Benefits but Also Raise Concerns

As part of our past work, we have also evaluated other proposals related to NFIP. Each of those proposals has potential benefits as well as challenges.

- In a previous report, we discussed some of the challenges associated with implementing a combined federal flood and wind insurance program.[21] While such a program could provide coverage for wind damage to those unable to obtain it in the private market and simplify the claims process for some property owners, it could also pose several challenges. For example, FEMA would need to determine wind hazard prevention standards; adapt existing programs to accommodate wind coverage, create a new rate-setting process, raise awareness of the program, enforce new building codes, and put staff and procedures in place. FEMA would also need to determine how to pay claims in years with catastrophic losses, develop a plan to respond to potential limited participation and adverse selection, and address other trade-offs, including the potential for delays in reimbursing participants, litigation, lapses in coverage, underinsured policyholders, and larger-than-expected losses.

[21]See GAO, *Natural Catastrophe Insurance: Analysis of a Proposed Combined Federal Flood and Wind Insurance Program*, GAO-08-504 (Washington, D.C.: Apr. 25, 2008).

- As we have previously reported, private business interruption coverage for flood damage is expensive and is generally purchased only by large companies.[22] Adding business interruption insurance to NFIP could help small businesses obtain coverage that they could not obtain in the private market, but NFIP currently lacks resources and expertise in this area. Adding business interruption insurance could increase NFIP's existing debt and potentially amplify its ongoing management and financial challenges. Insurers told us that underwriting this type of coverage, properly pricing the risk, and adjusting claims was complex.

- Finally, we have reported that creating a catastrophic loss fund to pay larger-than-average annual losses would be challenging for several reasons.[23] For example, NFIP's debt to Treasury would likely prevent NFIP from ever being able to contribute to such a fund. Further, such a fund might not eliminate NFIP's need to borrow for larger-than-expected losses that occurred before the fund was fully financed. Building a fund could also require significant premium rate increases, potentially reducing participation in NFIP.

Closing Comments

FEMA faces a number of ongoing challenges in managing and administering NFIP that, if not addressed, will continue to work against improving the

[22]See GAO, *Information on Proposed Changes to the National Flood Insurance Program*, GAO-09-420R (Washington, D.C.: Feb. 27, 2009).

[23]See GAO-09-420R.

program's long-term financial condition. As you know, improving NFIP's financial condition involves a set of highly complex, interrelated issues that are likely to involve many trade-offs and have no easy solutions, particularly when the solutions to problems involve balancing the goals of charging rates that reflect the full risk of flooding and encouraging broad participation in the program. In addition, addressing NFIP's current challenges will require the cooperation and participation of many stakeholders.

As we noted when placing NFIP on the high-risk list in 2006, comprehensive reform will likely be needed to address the financial challenges facing the program. In addressing these financial challenges, FEMA will also need to address a number of operational and management challenges before NFIP can be eligible for removal from the high-risk list. Our previous work has identified many of the necessary actions that FEMA should take, and preliminary observations from our ongoing work have revealed additional operational and management issues. By addressing both the financial challenges as well as the operational and management issues, NFIP will be in a much stronger position to achieve its goals and ultimately to reduce its burden on the taxpayer.

Chairman Dodd and Ranking Member Shelby, this concludes my prepared statement. I would be pleased to respond to any of the questions you or other members of the Committee may have at this time.

GAO Contact and Staff Acknowledgments

Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. For further information about this testimony, please contact Orice Williams Brown at (202) 512-8678 or williamso@gao.gov. This statement was prepared under the direction of Patrick Ward. Key contributors were Tania Calhoun, Emily Chalmers, Nima Patel Edwards, Elena Epps, Christopher Forys, Randy Hite, Tonia Johnson, and Shamiah Kerney.

Related GAO Products

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Highlights

Highlights of GAO-10-1063T, a testimony before the Committee on Banking, Housing, and Urban Affairs, U.S. Senate

Why GAO Did This Study

The National Flood Insurance Program (NFIP), established in 1968, provides policyholders with insurance coverage for flood damage. The Federal Emergency Management Agency (FEMA) within the Department of Homeland Security is responsible for managing NFIP. Unprecedented losses from the 2005 hurricane season and NFIP's periodic need to borrow from the U.S. Treasury to pay flood insurance claims have raised concerns about the program's long-term financial solvency. Because of these concerns and NFIP's operational issues, NFIP has been on GAO's high-risk list since March 2006. As of August 2010, NFIP's debt to Treasury stood at $18.8 billion. This testimony discusses (1) NFIP's financial challenges, (2) FEMA's operational and management challenges, and (3) actions needed to address these challenges. In preparing this statement, GAO relied on its past work on NFIP and GAO's ongoing review of FEMA's management of NFIP, particularly data management and contractor oversight issues.

What GAO Recommends

In past work, GAO recommended, among other things, that FEMA take steps to help ensure that premium rates are more reflective of flood risks; strengthen its oversight of NFIP and insurance companies responsible for selling and servicing flood policies; and strengthen its internal controls and data quality. FEMA has begun to take steps to address some of these recommendations.

View GAO-10-1063T or key components. For more information, contact Orice Williams Brown at (202) 512-8678 or williamso@gao.gov.

September 22, 2010

NATIONAL FLOOD INSURANCE PROGRAM

Continued Actions Needed to Address Financial and Operational Issues

What GAO Found

While Congress and FEMA intended that NFIP be funded with premiums collected from policyholders rather than with tax dollars, the program is, by design, not actuarially sound. NFIP cannot do some of the things that private insurers do to manage their risks. For example, NFIP is not structured to build a capital surplus, is likely unable to purchase reinsurance to cover catastrophic losses, cannot reject high-risk applicants, and is subject to statutory limits on rate increases. In addition, its premium rates do not reflect actual flood risk. For example, nearly one in four property owners pay subsidized rates, "full-risk" rates may not reflect the full risk of flooding, and NFIP allows "grandfathered" rates that allow some property owners to continue paying rates that do not reflect reassessments of their properties' flood risk. Further, NFIP cannot deny insurance on the basis of frequent losses and thus provides policies for repetitive loss properties, which represent only 1 percent of policies but account for 25 to 30 percent of claims. NFIP's financial condition has improved slightly due to an increase in the number of policyholders and moderate flood losses, and since March 2009, FEMA has taken some encouraging steps toward improving its financial position, including making $600 million in payments to Treasury without increasing its borrowings. However, it is unlikely to pay off its full $18.8 billion debt, especially if it faces catastrophic loss years.

Operational and management issues may also limit efforts to address NFIP's financial challenges and meet program goals. Payments to write-your-own (WYO) insurers, which are key to NFIP operations, represent one-third to two-thirds of the premiums collected. But FEMA does not systematically consider actual flood insurance expense information when calculating these payments and has not aligned its WYO bonus structure with NFIP goals or implemented all of its financial controls for the WYO program. GAO also found that FEMA did not consistently follow its procedures for monitoring non-WYO contractors or coordinate contract monitoring responsibilities among departments on some contracts. Some contract monitoring records were missing, and no system was in place that would allow departments to share information on contractor deficiencies. In ongoing GAO work examining FEMA's management of NFIP, some similar issues are emerging. For example, FEMA does not have an effective system to manage flood insurance policy and claims data, although investing roughly 7 years and $40 million on a new system whose development has been halted. However, FEMA has begun to acknowledge its management challenges and develop a plan of action.

Addressing the financial challenges facing NFIP would likely require actions by both FEMA and Congress that involve trade-offs, and the challenges could be difficult to remedy. For example, reducing subsidies could increase collected premiums but reduce program participation. At the same time, FEMA must address its operational and management issues. GAO has recommended a number of actions that FEMA could take to improve NFIP operations, and ongoing work will likely identify additional issues.

PREPARED STATEMENT OF SALLY MCCONKEY

VICE CHAIR, ASSOCIATION OF STATE FLOODPLAIN MANAGERS

SEPTEMBER 22, 2010

The Association of State Floodplain Managers (ASFPM) thanks this Committee, Chairman Dodd and Ranking Member Shelby, for your attention to the need to reauthorize and reform the National Flood Insurance Program (NFIP). We very much appreciate your holding this hearing and appreciate the opportunity to share our thoughts on the current status of the NFIP, challenges the program confronts and opportunities to improve our Nation's efforts to reduce flood-related losses. Unfortunately, the extensive work that went into the Flood Insurance Reform Act, passed in different forms in the 110th Congress by both the House and Senate did not result in new public law. Many of the elements of that legislation are still highly relevant and in need of resurrection. Beyond that, some other issues have emerged that point to the need for further reform ideas.

Who We Are

The Association of State Floodplain Managers, Inc. (ASFPM) and its 29 Chapters represent over 14,000 State and local officials and other professionals who are engaged in all aspects of floodplain management and hazard mitigation, including management, mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources, and insurance for flood risk. All ASFPM members are concerned with working to reduce our Nation's flood-related losses. Our State and local officials are the Federal Government's partners in implementing flood mitigation programs and working to achieve effectiveness in meeting our shared objectives. Many of our State members are designated by their governors to coordinate and implement the National Flood Insurance Program, and many others are involved in the administration and implementation of FEMA's mitigation programs. For more information on the Association, our Web site is: *http://www.floods.org*.

Need To Reauthorize and Reform the National Flood Insurance Program

A reauthorization of 2–3 years is important for the stability of the NFIP and the associated predictability is important for lenders, the housing industry, home buyers, policy holders and the Write Your Own (WYO) insurance companies which write flood insurance policies in partnership with FEMA. Numerous recent periods of hiatus in the NFIP's authorization have caused confusion, bureaucratic paperwork challenges, legal worries, frustration (which has resulted in one major insurance company pulling out of the WYO program) and delayed real estate settlements in a difficult period for the housing industry. Reauthorizations of several weeks or months do not provide stability, confidence and predictability.

While a longer period of authorization is clearly needed, many important reform ideas will need further evaluation and consideration by the Committee. In the 2 years since the Senate passed its version of H.R. 3121 in the 110th Congress, a number of additional issues have emerged. These, largely involving the status of levees and other infrastructure, the issuance of updated flood insurance risk maps and the affordability of flood insurance, lead to reform considerations that go beyond the reforms of the earlier legislation and may require reconsideration of some of its provisions.

ASFPM believes that a 2–3 year reauthorization would provide the needed reliability while allowing time for FEMA to complete its "Re-Thinking the NFIP" project, including presentation of legislative options and recommendations to the Congress, and for the Committee to consider and act on those recommendations.

A Comprehensive Review of National Flood Insurance Program Accomplishments and Shortfalls Is Needed for Long Term Reform

ASFPM applauds the constructive examination of the National Flood Insurance Program (NFIP) launched by FEMA Administrator Craig Fugate. Administrator Fugate has recognized both the value of the NFIP and the need for a new phase of program growth and adaptation to changing circumstances. During a Listening Session on the future of the NFIP last November, Mr. Fugate challenged over one hundred invited participants to think creatively about the overall value of the NFIP, what it was intended to achieve, what is has and has not accomplished, and needed changes, both small and large.[1] One example to encourage thinking big was whether or not the private sector could now handle and provide flood insurance. Mr. Fugate has subsequently charged a FEMA working group with assembling the rec-

[1] ASFPM comments at the NFIP listening session appended to this testimony.

ommendations, analyzing their merits and feasibility, and then developing substantive recommendations for moving the NFIP forward. The working group will evaluate not only the suggestions from the recent and additional Listening Sessions, but also the recommendations of a multiyear NFIP Evaluation led by the American Institutes for Research, the results of several Government Accountability Office Studies, Congressional Research Service studies, and other reports. FEMA expects to have a number of substantive additional reform proposals ready for Congressional consideration within the next 2 years, when we urge your timely consideration.

The NFIP Challenges for Growth and Adaptation

The hurricane seasons of 2004 and 2005 involved catastrophic losses well exceeding the average historical loss year, putting the program in debt to the Treasury. The debt now stands at $19.6 billion. Due to two mild loss seasons and a favorable refinancing of the debt, the NFIP has been able to repay $589 million and the interest. However, full repayment of the debt is not a reasonable expectation because mild loss seasons cannot be expected to continue, the Nation's flood risk is increasing due to development and more intense storms, the interest on the debt will go up, and the annual program income is about $3.2 billion.

The poor condition of much of the Nation's infrastructure, including levees, dams and other flood control structures, as well as stormwater facilities, has become more evident. More accurate flood maps now reflect the unreliable flood protection of levees and the effects of development by showing some areas as now in the 100-year flood hazard area (and, conversely, by showing many areas as no longer in the 100-year flood hazard areas). It is important to note that approximately as many properties are newly shown as out of a Special Flood Hazard Area (SFHA) as are newly shown as in the SHFA. The requirement to purchase flood insurance in areas newly shown to be at risk of flooding is highlighting concern about affordability of flood insurance. By the same token, if the new maps do not become effective, those property owners now shown out of the SFHA will still be required to purchase flood insurance.

Reflections and Questions

The Association of State Floodplain Managers concludes that the NFIP has been successful in meeting a number of its original objectives, but less so in reducing flood losses in the Nation. The NFIP has, for example, required those living at risk to obtain flood insurance, sparing taxpayers from paying many millions of dollars in disaster relief, and enabling many citizens to more fully restore their lives to normalcy after a disaster. Additionally, the NFIP has prevented some unwise development and promoted some hazard mitigation through local adoption of floodplain management ordinances. On the other hand, too many Americans continue to build in at-risk locations, including residual risk areas behind flood control structures and high risk coastal areas, and collective flood losses for the Nation continue to increase in real dollars. In the first decade of this century, yearly flood losses have increased from $6 billion to $15 billion.

We recommend that Congress consider clarifying the intended objectives of the NFIP so that the program can be evaluated accordingly. For example, should the NFIP be expected to accommodate catastrophic losses rather than the average historical loss year? If so, are there realistic, affordable program adaptations that can achieve that objective? If not, would it be best to clarify that the program is not expected to cover truly catastrophic losses?

Other questions warrant examination. What adjustments are needed for the program to be a more positive factor in reducing flood losses in the Nation? What adjustments are needed to act on better risk identification through improved maps? If the NFIP is to be a significant tool in an integrated flood risk management approach, how should it be altered to better support this objective? ASFPM has endorsed the following concepts:

- Integrate the NFIP with other Federal flood risk programs, including the disaster relief program, Army Corps of Engineers, Environmental Protection Agency (EPA), and Natural Resources Conservation Service (NRCS).
- Identify cross-program policy conflicts and inappropriate incentives that increase risk.
- Build State floodplain management program capability and capacity to work with the 21,000 participating local jurisdictions.
- Delegate the floodplain management and mapping elements of the program to qualified States, similar to programs managed by the EPA and Department of Transportation.

- Identify incentives and disincentives for State and local governments to make the program more effective, since local decisions determine how much development will be placed at risk of flooding.
- Evaluate the NFIP-funded mitigation grant programs to determine whether they are effectively addressing the most high-risk structures.

Other questions that need to be addressed include:

- Should the flood maps better display the flood risk so that communities and citizens understand that the flood risk does not stop at the line on a map—and that considerable risk exists beyond the "100-year" floodplain? (The average home is occupied for more than 100 years, virtually assuring that every home in the 100 year flood hazard area will flood in its lifetime.)
- Should insurance be required in residual risk areas behind levees and below dams?
- Should insurance be required in a broader area, such as the 200-year or 500-year floodplain?
- Should critical infrastructure like hospitals, fire and police stations and water supply and treatment plants be regulated based on a larger flood, but one the Nation experiences somewhere every year, such as the 500-year floodplain?
- Should flood insurance policies be long-term (20 years or more) and tied not to the owner but to the property, regardless of property transfers?
- Should some noninsurance means be identified, like flood insurance vouchers, to assist lower income property owners and renters with the cost of flood insurance?

Broad Recommendations

Flood insurance should gradually move toward being actuarially sound to reflect actual risk and enable market-based financial decisions about how much risk-related cost to assume. We recognize that there are affordability problems for some citizens currently living in at-risk areas; this is more prevalent in older riverine areas than in recently developed coastal areas or some newly developed areas behind levees. The de-accreditation of levees and more accurate flood maps have highlighted the affordability issue. We do not support efforts to delay issuance of flood maps, withholding accurate information about flood risk from citizens living and working in hazardous areas. We suggest that this issue presents challenges, but ones that can lead to constructive new growth and adaptation for the NFIP if done correctly.

To actually reduce flood-related loss of life and property in the Nation, we must move toward a true flood risk management framework with the Nation's policies and programs. A comprehensive flood risk management program recognizes that:

- Managing flood risk is a shared responsibility between individual, private sector, community, State, and Federal Government;
- Flood risk is not isolated to the 100-year flood hazard area but is rather a continuum of risk that crosses lines on a map;
- Development and other activity outside the 100-year floodplain but in the watershed impacts flood levels—if we only manage activity in that 100-year floodplain, we miss opportunities to save lives and reduce flood damages and impacts;
- All structural protection measures will fail or be overtopped at some point by some flood event;
- Managing flood risk requires a mix of measures from avoidance to retreat from high risk areas to consideration of structural measures. Selection of only one structural measure, such as a levee, leads to severe losses in catastrophic events. Levee failure, high storm surge and 500-year events have shown the need for a mix of approaches including elevation, insurance, and structures;
- Flood levels will increase in the future because development increases runoff; and storms are intensifying;
- Flood risk will increase as the natural resources and functions of floodplains are altered by development since this destroys the natural system that reduces the negative impacts of flooding;
- Flood risk management includes concepts such as identification of flood risk, community planning to steer development away from areas of risk, basing flood insurance on actual risk, vigorous promotion and support of hazard mitigation

actions, and enabling citizens to better recover from disasters by being insured to reduce their financial risk.

The U.S. Army Corps of Engineers has adopted the comprehensive flood risk management approach in many of its programs at the national level, but for this approach to be successful for the Nation, FEMA must also actively promote the concept and integrate its programs for the NFIP, mitigation and disaster relief internally, and integrate them with programs of the Corps and other agencies that impact flood risk.

Consider a number of interesting ideas to address the affordability problem. The long-term goal should be to eliminate premium subsidies: an insurance program with subsidies is not an insurance program. We understand the need to assist low income people with insurance premiums for some specified length of time, or better yet, to assist them with mitigating their property—upon demonstrated need. A program of flood insurance vouchers to assist with purchase of flood insurance issued through a means-tested program could be administered by the Department of Housing and Urban Development. An analysis might show it would be less costly for the taxpayer to pay for flood insurance vouchers for low income property owners for a limited time rather than have the taxpayer continue to pay disaster costs from the Disaster Relief Fund every time that a community floods. This would also support more rapid postdisaster restoration and community economic stability because everyone would have flood insurance, which can also be applied toward mitigation of their property after a disaster. If short term relief is provided using the NFIP—through delayed mandatory purchase of insurance, extension of time when policies can carry Preferred Risk rates, or phase-in of actuarial rates; it must be recognized that none of these are appropriate long term solutions—somebody in the Nation will pick up those costs, mostly the Federal taxpayers. In conjunction with such short term relief, FEMA should provide general information about actuarial rates so people see what their true risk is, and at the same time, provide substantial information about mitigation actions and how much each action will reduce actuarial premiums in the future. Group flood insurance could be developed by FEMA for mapped flood hazard areas and areas mapped as protected by a levee, allowing a group policy to be purchased by the levee district or other local taxing entity for all residents of the area, thereby keeping costs down. Remember, the more policies there are the lower the premiums everyone pays.

The Nation must carefully balance the issue of who benefits and who pays for development at risk. There are about 130 million housing units in the U.S. Of that about 10 or 11 million are in flood hazard areas. Of those in flood hazard areas, roughly half carry flood insurance. This means 90 percent of the population does not live in identified Standard Flood Hazard Areas, but continues to pay a large amount each year for disaster relief for flooding, rebuilding damaged infrastructure in flood areas, and may have to cover the $19 billion debt of the NFIP. Yet those same taxpayers obtain few, if any, of the benefits of that development. This points out the need to tie program outcomes of the NFIP to these other programs like disaster relief programs and programs of HUD, DOT, USDA and others.

Perspectives on the National Flood Insurance Program

FEMA reports that the NFIP has been self-supporting for 20 years. From 1986–2005, prior to Hurricane Katrina, income from policy holders covered claims and all operating expenses, including salaries and expenses of the Federal employees who administer the NFIP and floodplain management programs. From time to time the NFIP exercised its authority to borrow from the U.S. Treasury when claims exceeded short-term income. Importantly, the program was praised for its ability to repay debts ahead of schedule and with interest. This would seem to be the way Congress intended the program to function. The original framers did not require the NFIP to set rates for truly catastrophic flooding associated with extreme events like Hurricane Katrina, or to have reserves to cover the fiscal impact such events would have on the program. A significant, often unrecognized, and difficult to measure benefit of the NFIP is the number of decisions people have made to build on higher ground and the damage that doesn't occur because buildings have been built to resist flood damage. Perhaps the original framers considered it reasonable that taxpayers contribute to payment of claims after extreme events that exceed the NFIP's capacity to pay as part of the bargain for long-term overall improvement in the way we manage flood losses—perhaps Congress could clarify this.

The NFIP has multiple goals, and providing flood insurance in order to minimize direct Government subsidy of flood damage is one of the goals. The consequence of having fewer people insured against known risks would likely be greater reliance on taxpayer funded disaster assistance and casualty loss tax deductions. Striking the balance between a fiscally sound NFIP while having premiums that are affordable—but that do not reward or encourage development in high flood risk areas—is the challenge now facing Congress and the Nation.

The National Flood Insurance Program is now 42 years old. It was created in 1968 by the Congress following several major studies in the 1950s and 60s, after which studies concluded that the private sector did not offer insurance coverage for flood because only those who had actually flooded would buy policies, contrary to a normal insurance model which assumes a broad spreading of risk to cover losses. The lack of information showing which properties were likely to flood added to the private sector dilemma, which is less of a challenge now that FEMA produces flood maps for 21,000 communities. The concepts embodied in the NFIP were designed with the idea it would save the taxpayers' money in disaster relief by requiring those living in at-risk locations to pay something to cover their own risk, and to enable them to more fully recover from flood damage than they could with only disaster relief. The assumption was that this would reduce flood losses over time by requiring local regulation of development in flood hazard areas as communities voluntarily agreed to participate in the program in order to make flood insurance available to community residents and businesses.

The NFIP has gone through various stages of growth and adaptation involving more, then less, then again more involvement with private insurance companies and agents. After its first 5 years, Congress added mandatory purchase of flood insurance in identified flood hazard areas. By 1979, the program moved from the Department of Housing and Urban Development (HUD) to the newly established Federal Emergency Management Agency (FEMA). Initially some 70 percent of insured properties had discounted policies because they were "grandfathered" since they were built before the flood hazard area was identified. Now about 23 percent of insured properties have these discounted rates. Many newly developed properties have been built either in safer locations outside the 100-year floodplain or built to NFIP standards (elevated to the 100-year flood level) to mitigate possible flood losses.

During the 1980s, the goal of making the program self-supporting for the average historical loss year was achieved, but the premiums did not provide sufficient income to develop and maintain accurate flood maps for 21,000 communities. There were no Congressional appropriations for the program from 1986 until 2003, when it was agreed the Nation needed a major map modernization effort requiring appropriated funds. Most of the Nation's flood maps were found to be 10 to 20 years old, not reflective of massive watershed and floodplain development, and therefore not accurately representative of actual flood hazards.

A major report following the Midwest floods of 1993 found that only 10–15 percent of damaged properties had flood insurance. This led to another set of improvements in the National Flood Insurance Reform Act of 1994, including stricter compliance requirements for lenders and new means of encouraging and supporting mitigation through the Increased Cost of Compliance insurance coverage, establishment of the Flood Mitigation Assistance program and authorization of the Community Rating System to make lower premiums available in communities taking significant steps beyond national minimum approaches to mitigate risk. The Flood Insurance Reform Act of 2004 Act made a number of improvements to insurance agent training and consumer provisions, and enhanced and developed programs to address the problem of repetitive flood losses.

Brief Observations on the Previous Senate-Passed Bill

There are a number of provisions in the flood insurance reform bill passed by the Senate in May, 2008 that ASFPM finds helpful and would hope to see included in a future reform measure. As noted elsewhere in this testimony, we would recommend that a few provisions of that bill receive further evaluation and perhaps, adjustment. Those would include the provision for a 5 year reauthorization, the provision for inclusion of catastrophic loss years in the calculation of average loss years and the provision for a catastrophe reserve We would prefer to see a 2–3 year reauthorization and we recommend that the Committee give further consideration to whether or not the NFIP should provide coverage of catastrophic losses.

We appreciate the following provisions in the earlier legislation: (not an all-inclusive list)

- forgiveness of the current debt to the Treasury
- increase in cap on annual premium increases to 15 percent
- phase out of subsidies (discounts) for nonresidential and nonprimary residence pre-FIRM structures and also for severe repetitive loss properties where flood losses have exceeded property value

- substantial section authorizing ongoing mapping program to include additional risk information and mapping of areas behind levees, below dams and in the 500 year floodplain
- provision for an Office of the Flood Insurance Advocate, but only if a national office, thus restricting the establishment of offices in FEMA Regional offices and temporary local offices to situations following a flood event
- increased penalties for lender noncompliance
- escrow of flood insurance payments
- notification of flood insurance availability outside of SFHAs during real estate transactions (the Committee may also wish to consider a requirement that landlords notify tenants of availability of contents insurance)

Flood Mitigation Assistance Program [Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c)]

- Add "demolition and rebuilding" as an eligible activity; this not only achieves consistency with the NFIP-funded Severe Repetitive Loss grant program, but gives another option that makes sense in certain situations (areas other than high-risk storm surge and floodway areas). Specifically, for some communities, acquisition by fee simple acquisition of land and relocation of the residents may not be the best solution, but rather mitigation measures that help improve livability and community integrity may be. Elevation-in-place is a feasible measure for many buildings; however, for many older buildings and certain types of buildings, it is more feasible or cost-effective to demolish and rebuild a new building, as long as sustainability and resilience are assured along with full compliance with floodplain requirements and building codes which address fire resistance, energy efficiency, and where appropriate, resistance to other hazards such as hail, high winds, and seismic forces.
- Eliminate the limitation on aggregate amount of insurance by striking subsection (f).
- Specify that the funds for this program (Section 1367) shall be available until expended (currently FEMA imposes a 2-year limitation) and that the funds shall be made available without offsetting collections through premium rates for flood insurance.

Severe Repetitive Loss Grant Program [Section 1361A (42 U.S.C. 4102A)]

- Correct an oversight and modify the definition of "severe repetitive loss property" to include nonresidential properties that have received the same number and value of claims. Nonresidential properties make up a disproportionately large share of all repetitive loss properties and we must be able to pursue mitigation of these high-loss properties in order to more effectively stem the drain on the Fund that is associated with properties that receive multiple claims.
- Delete 1361 A(g)(3)(A) and (B) so that the purchase price offered would be determined only by the either the fair market value immediately before the most recent flood event or the current fair market value. It is complicated, confusing, and expensive to have to determine the potential purchase price four ways (and the purpose of the grant is not to enrich those who unwisely paid more than a property's market value at the time of purchase or who borrowed more than the property is worth).

Grants for Direct Funding of Mitigation Activities for Individual Repetitive Claims Properties [Section 1323 of the National Flood Insurance Reform Act of 1968]

Current NFIP-supported mitigation grant programs provide cost share funds to communities—and thus successful projects depend on community participation. ASFPM has long supported community-based mitigation; however, we recognize that some repetitive loss properties are in communities that may not have the resources to participate. In order to achieve the goal of reducing the repetitive loss drain on the National Flood Insurance Fund, we urge the Committee to:

- Clarify that FEMA has the authority to work directly with certain property owners under this specific program, which was authorized at $10 million each year. There are many nonresidential properties that have received millions in flood insurance claims. Allowing FEMA to selectively encourage very high-loss property owners to consider mitigation will actually implement paragraph (b) which calls for prioritizing the worst-case properties to result in the greatest savings to the Fund;

- Specify that at least two claims shall have been paid in order for a property to be eligible;
- Specify that the funds shall be made available until expended (*see,* Section 1310(a)).

The following also comes from our recommendations on S2284

Create a New Section To Establish Priorities for NFIP-Funded Mitigation Grant Programs. Direct FEMA to develop a mechanism to recognize that mitigation of repetitive loss properties (of which Severe Repetitive Loss properties are a subset), and that mitigation by acquisition, are priorities. The former helps reduce the drain represented by properties that receive repetitive claims; the latter is the only mitigation activity that permanently avoids future damage, while also providing benefits that are difficult if not impossible to quantify. There are examples where FEMA has denied funding for homes that have a computed benefit to cost ratio of 0.99. We appreciate that FEMA has been criticized in the past for its policy of approving buyouts for homes when the B:C is "close" to 1.0. The required new section would fulfill Congressional intent and make implementation easier and more consistent. It should also be clarified that mitigation projects that include repetitive loss properties and SRLs are, by definition, in the best interests of the NFIP and therefore FEMA should develop a mechanism to recognize this. Report language can suggest that FEMA use multipliers applied to the computed benefit-to-cost ratios as proxies.

Create a new section as follows:

Sec. 1366A. (a) PRIORITIES FOR MITIGATION ASSISTANCE.—In the administration of the mitigation assistance in Sec. 1323, Sec. 1361A, and Sec. 1366, and notwithstanding the provisions of those sections, the Director shall consider the following to be priorities and in the best interests of the National Flood Insurance Fund:

1. mitigation activities that include repetitive loss structures, as defined in Sec. 1370(a); and
2. mitigation activities that include severe repetitive loss structures, as defined in Sec. 1361A; and
3. mitigation activities that include substantially damaged properties, as defined in Sec. 1370(a); and
4. mitigation activities that include acquisition of properties with structures;
5. mitigation activities that include other such properties as the Director determines are in the best interests of the National Flood Insurance Fund.

Sec. 1366A. (b) RECOGNIZING PRIORITIES.—The Director shall develop a mechanism to recognize explicitly that mitigation activities identified in paragraph (a) are priorities.

Implementation of the Increased Cost of Compliance Coverage as Amended in 2004. ASFPM urges the Committee to request a report from FEMA on implementation of the changes to Section 1304(b) that were enacted in the Reform Act of 2004. This coverage (called ICC) has been part of all policies on buildings in mapped special flood hazard areas since about 1997. Total income associated with premiums for ICC greatly exceeds the payments made to qualifying policy holders.

The Association of State Floodplain Managers appreciates the opportunity to share our views, recommendations and concerns with you. We hope these observations, based on our collective experience in working to reduce flood risk in the Nation and in serving as FEMA's partners in implementing the National Flood Insurance Program, will be helpful as you work to improve the NFIP. We look forward to answering any questions you may have and assisting the Committee in any way that you find helpful.

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NFIP Listening Session-ASFPM comments
Nov 5-6, 2009

ASFPM Presentation by Larry Larson, ASFPM Executive Director

Now is the time to back up and look at the "big picture of the NFIP

Various developments have come together to make this a perfect time to open up the thought process about the challenges for National Flood Insurance Program (NFIP) and options to address those challenges. The program is deeply in debt due to catastrophic storms it was not designed to handle; a major effort to modernize and update the nation's very outdated flood hazard maps to be more accurate and appropriately reflect the hazards associated with structures such as levees is changing the delineation of the "regulatory floodplain" and associated areas for mandatory purchase of flood insurance; the need to purchase flood insurance in newly mapped communities is resulting in "push back" against more accurate hazard identification; the public safety communication about risk and hazard mitigation has become lost; and increased enforcement by the Army Corps of Engineers that appropriately results in de-accrediting levees that do not meet the structural, hydrologic, or O&M requirements to assure 100 year flood protection is highlighting the connections between the Corps, FEMA and the NFIP on flood risk management issues.

A new Administration with new thoughts and perspectives is ready to enter the discussion about the NFIP and to advance a more integrated flood risk management strategy where the NFIP is one of the elements therein. ASFPM recognizes not all the ideas we mention here may or after evaluation should be implemented, but all of them should be considered and evaluated to re-tool the NFIP into a more effective program for the nation that will effectively reduce flood losses and the loss of natural resources and functions of our floodplains.

The NFIP has had some major accomplishments in the past 40 years

- Over 20,000 communities with land use mgt and/or building codes (adds resilience)
- Many of nation's floodplains mapped (and much more needed)
- Almost 50% of those are risk of flooding pay at least some of that cost
- The NFIP was mostly self supporting for nearly 20 years

Questions and issues we hope to see addressed
By either FEMA with rules and guidance or by Congress through legislation

What was the NFIP intended to accomplish? Are the goals still valid?
What do Congress and the Administration want it to accomplish?
Does the basis of the NFIP need to change or not?
What's the assessment of what it has accomplished?
Why have flood losses increased, not decreased, despite 40 years of the NFIP?
If it has not succeeded, is it because of program design, inadequate development standards or implementation approaches?

What are recent developments or recognitions that could impact the future of the NFIP?
- Debt to Treasury
- Lack of clarity over whether or not NFIP should cover catastrophic flood losses (the NFIP should not cover wind)
- More severe, intense rainfall events and storms
- Sea level rise
- Increase in population density near water
- Map updates and levee de-accreditations

Where are the gaps and problems?
- Continued Affordability of flood insurance
- Maps provide unintended message of little/no risk beyond 100 year floodplain
- Lack of recognition of residual risk areas behind levees and below dams—those areas must be mapped, regulated and require flood insurance
- Inadequate development standards—e.g. need freeboard, zero rise floodways, no habitable uses in floodway, "no build zones in coastal highest hazard areas
- Maps of flood hazard areas must be based on future development, not yesterday's
- The CRS standards are too low, make most of them NFIP base standards and create some really effective CRS standards that are effective and incentivize local/state actions

What role has subsidies or discounts played in supporting unwise development?
- Are rate subsidies and grandfathering contributing to NFIP insolvency?
- Should the rationale for subsidies be re-examined?
  - If premiums are subsidized, it is no longer a true insurance program
- Should subsidies exist? If for low income folks, what program should pay them?
  - Any low income subsidies should be taxpayer funded and done by HUD
- Rating practices be re-examined for more accurate picture of risk
- How can the NFIP move all policies to actuarial based pricing and avoid policy loss?

If the NFIP is to be a significant tool in the integrated flood risk management perspective, how should it be altered to better support this objective?
- Integrate the NFIP with other federal flood risk programs, including the disaster relief program, Corps of Engineers, EPA and NRCS programs
- FEMA needs to identify cross program policy conflicts that increase risk

- The NFIP must build State FPM capability and capacity or it will not succeed
- The NFIP program should be delegated to states, similar to EPA and DOT programs
- What incentives and disincentives would make it more effective?
- Are the NFIP mitigation grant programs effectively addressing the high risk structures?

How can the NFIP better deliver the risk message and protect the general taxpayer?

- More areas of mandatory coverage--e.g. residual risk areas on rivers and coasts
- More defined set of rates and maps to clarify variation of risk beyond SFHAs
- Modification of 100 year standard for critical facilities & areas of dense population
- Change name and attributes of map so its viewed as risk map, not an insurance map
- Add zones within SFHA so those more at risk pay higher rates than lesser risk structure
- Do not add wind coverage to the flood insurance program

What are some "new ideas" for refreshing and re-invigorating the program?

- Group policies for areas behind levees to be purchased by levee districts
- Flood insurance vouchers for lower income households to be administered by HUD
- Long-term flood insurance to be attached to property, not owner (see Kunreuther)
- Consider requiring flood insurance as a part of all homeowners policies
- Tie Disaster dollars to NFIP compliance, with a sliding scale to reflect how well the community and state are managing their flood risk
- Consider a major change where FEMA would no longer be in charge of flood insurance---turn flood insurance over entirely to the private sector. (this will need to be done carefully so as not to lose the floodplain mgt in communities and states)

PREPARED STATEMENT OF J. NICHOLAS D'AMBROSIA

VICE PRESIDENT OF TRAINING AND RECRUITING, LONG & FOSTER

SEPTEMBER 22, 2010

Introduction

Chairman Dodd, Senator Shelby, and Members of the Committee, on behalf of more than 1.1 million REALTORS® who are engaged in all aspects of the residential and commercial real estate sectors, thank you for inviting me to testify today regarding reauthorization and reform of the National Flood Insurance Program (NFIP).

My name is Nick D'Ambrosia. A REALTOR® since 1973 and licensed in Maryland, Virginia, and the District of Columbia, I am currently Vice President of Training and Recruiting for Long & Foster Companies. Long & Foster is the largest independently owned real estate company in the United States operating with 13,000 sales associates, 2,500 employees and 190 offices across seven States and Washington, DC. I am also Vice Chair of the Maryland Real Estate Commission, where I have served as chair and industry member since 2005. For many years, I have been active within the National Association of REALTORS® (NAR), holding significant positions at the national and State levels, including President of the Maryland Association of REALTORS®, as well as the Prince George's County Association of REALTORS®. I also served as a member of NAR's Enlarged Leadership Team, Executive Committee, and Board of Directors, as well as numerous NAR standing Committees, task forces and presidential advisory groups. Most recently, I was a member of NAR's Property Insurance Task Force that was charged with examining how access to affordable property insurance for the plethora of natural disasters, including flooding, might be achieved.

Since September of 2008, Congress has approved eight short-term extensions of authority for the NFIP. On two occasions, Congress has allowed authority for the program to expire for several weeks at a time. Each time NAR estimates that tens of thousands of real estate transactions were delayed if not cancelled. In addition, the many shutdowns and short-term extensions have exacerbated uncertainty in what are already troubled residential and commercial real estate markets. Earlier this year, the House of Representatives passed H.R. 5114, the Flood Insurance Reform Priorities Act, to reauthorize the NFIP for a full 5 years. While this bill makes some difficult changes to the program, we would encourage the Senate to take up this legislation so that the program may be reauthorized long-term and continue writing flood insurance without further market disruption. We also note several efforts underway for a straight year-long NFIP extension, including one to September 30, 2011, in S. 3607 (Department of Homeland Security Appropriations, FY2011) which has been approved by the full Senate Committee. In any event, we would urge the Senate not to let the NFIP lapse again which would only further undermine the already fragile confidence in recovering real estate markets. At a minimum, the Senate should pass the year-long extension, as part of must-pass legislation or as a free standing bill.

The Importance of the NFIP

In 1968, the Congress established the NFIP because of the lack of available flood insurance in the private market and the rising cost of taxpayer-funded disaster relief to flood victims, which, up until that time, had been the only way to pay for rebuilding after a flood. Still today, virtually no market exists for flood insurance. According to the General Accountability Office (GAO), only four large companies provide "almost all the private flood insurance" and only then for owners with "high net worth" and properties valued at "at least $1 million. [1] Most American taxpaying families and small business owners would be priced out of what market exists for flood insurance were it not for the existence of the NFIP. Without this critical program, most Americans would not have access to a vital protection against loss of life and property due to the very real risk of flooding.

The most common natural disaster in the United States, each year floods are responsible for 140 deaths according to NOAA and on average $6 billion in losses by the U.S. Army Corps of Engineers' estimate. The GAO put it best:

> [B]ecause flooding is so widespread, it presents risks to a large segment of the population. For example, we found that between 1980 and 2005, approximately 97 percent of the U.S. population lived in a county that experienced at least one declared flood disaster; about 93 percent lived in counties

[1] GAO, "Information on Proposed Changes to the NFIP", Report to Representative Barney Frank, Chairman of the House Committee on Financial Services, pp. 18–19.

that had experienced two or more flood disaster declarations; and 45 percent lived in counties that experienced six or more flood disaster declarations.[2]

Contrary to critic's assertions, the NFIP does not represent a cross subsidy from the interior of the U.S. to coastal States. While it is true that more than half the U.S. population lives within 50 miles of the coast and has access to the NFIP in participating communities (as does everyone else in a participating community), everyone benefits from a national flood insurance program. We have appended to this testimony a map developed by the GAO presenting the number of flood disaster declarations by county between 1980 and 2005. Areas of the country that have yet to experience flooding at a magnitude to warrant a disaster declaration are shown in white. As you will note, there is very little white space on the map. Maintaining access to affordable flood insurance is, therefore, of critical national interest to the whole of the United States, not just its coastal residents.

By providing flood insurance, the NFIP effectively reduces the amount of Federal postdisaster assistance, paid by all taxpayers including those in the interior. For example, of the $88 billion obligated to Gulf Coast States after the 2005 hurricane season, $26 billion went directly to under-insured property owners according to the GAO.[3] That is $26 billion in taxpayer-financed rebuilding assistance which would not have been necessary had more properties been insured, because then, insurance—and not taxpayer-paid assistance—would have paid for rebuilding those properties. Fortunately, there was an NFIP that was authorized at the time to insure approximately half the properties in the floodplains which were in the path of those 2005 mega-storms.[4] But for the NFIP, the taxpayer-assisted number ($26 billion) would have been significantly higher.

Also, the NFIP reduces flood damage by requiring communities to adopt and enforce strict floodplain management and mitigation regulations as a condition for their residents to be able to buy NFIP coverage. Nearly 20,000 communities have adopted these rules, averting $16 billion in losses since 2000 alone according to the U.S. Department of Homeland Security. Buildings constructed to NFIP standards experience 80 percent less damage than those not built to standards. As one program evaluation finds, the NFIP "has clearly induced savings on flood costs" and that "flood insurance has shifted the loss from taxpayers to those who pay the insurance premium."[5] In fact, the NFIP saves taxpayers money as well as property.

Some have asserted that the NFIP encourages development of "environmentally sensitive areas." Not so. Government-backed insurance is not the deciding factor to locate in the floodplain. According to NAR research, neighborhood quality or access to parks or beaches is far more likely to drive the decision. Historically, this country was built in floodplains along rivers and coastlines. Long before the NFIP was even contemplated, New York, New Orleans, Boston, Miami, St. Louis, Pittsburg, Cleveland, Houston, and Washington, DC, were already well established in what today FEMA designates as the floodplain. Since then, there have been program reforms which prevent development of the most sensitive coastal areas. Under the Coastal Barrier Resources Act of 1982, all of these areas are off limits to the NFIP, though interestingly, not to privately financed development or insurance. A report released in October 2006 that found "[t]he common belief that the NFIP has stimulated development that increased flood losses is not supported by our findings."[6] Whether national flood insurance is available or not, there will continue to be floodplain development; the difference is that the NFIP saves taxpayers money as well as property.

Others have claimed that the NFIP writes policies in wealthy resort communities, but for every policy holder in Hilton Head Island, SC, or Naples, FL, there is one in a home on the Red River in North Dakota or a rental property along the Missouri River in Iowa. The Congressional Budget Office (CBO) has found no evidence to suggest that the NFIP would cover larger or more luxurious structures, whether inland or in a coastal area.[7] Another study on the NFIP found that those in the middle-income brackets were less likely to live in floodplain areas than either of those in the highest or lowest income brackets. That study noted that "low income house-

[2] GAO, "Natural Hazard Mitigation: Various Mitigation Efforts Exist, but Federal Efforts Do Not Provide a Comprehensive Strategic Framework", (August 2007), pp. 11–12.

[3] GAO, "Natural Disasters: Public Policy Options for Changing the Federal Role in Natural Catastrophe Insurance", (November 2007), Figure 3.

[4] Pacific Institute for Research, "Costs and Consequences of Flooding and the Impact of the National Flood Insurance Program", (October 2006), p. 28 (hereafter, "PIR Study"), p. 36.

[5] PIR Study.

[6] *Ibid.,* p. 41.

[7] CBO, "Value of Properties in the National Flood Insurance Program," (June 2007), p. 7.

holds [defined as $10,000–$30,000 per year] live in hazardous areas in order to find affordable housing or because they work in water recreation areas and find the least expensive housing nearby." [8] If someone is able to afford a multimillion dollar beachfront property or resort development, they are going to look to insurance companies willing to write coverage above the $350,000 coverage limits imposed by the NFIP (*i.e.,* $250,000/structure and $100,000 for contents). It is the lower and middle class families, retirees on fixed incomes and locally owned small-business owners who have been priced out of the private market for flood insurance, for which this Federal program is designed.

NAR Urges Long-term NFIP Reauthorization

Since September 2008, Congress has adopted eight short-term extensions of statutory authority for the NFIP—all within a few days of the deadline. (This includes the current extension to September 30, 2010.) Twice, authority has been allowed to expire. Each time, NAR estimates that tens of thousands of real estate transactions were either delayed or cancelled. Without flood insurance, federally backed mortgages may not be secured in residential or commercial real estate transactions in nearly 20,000 communities across the United States. Because the NFIP did not have authority to issue any policies, property owners lost confidence that they would be able to renew their existing policy when the time came. While we can quantify the cost of delaying real estate closings, the shock to consumer confidence due to the many stop-gap extensions is immeasurable. This month-to-month approach has hindered a recovering real estate market and only exacerbated the uncertainty for more than five-and-a-half million taxpayers who depend on the NFIP as their main source of protection against floods.

On September 30, 2010, about a week from today, again NFIP authority is set to expire. This will be the ninth time in 2 years that the Congress will have to re-extend this important program. Recently, the House of Representatives passed H.R. 5114, the Flood Insurance Reform Priorities Act to reauthorize the NFIP for a full 5 years. While this bill makes some difficult changes to the program, we would encourage the Senate to take up this legislation so that the program may be reauthorized long-term and continue writing flood insurance without further market disruption. We also note several efforts underway for a straight year-long NFIP extension, including one to September 30, 2011, in S. 3607 (Department of Homeland Security Appropriations, FY2011) which has been approved by the full Senate Committee. In any event, we would urge the Senate not to let the NFIP lapse again which would only further undermine the already fragile confidence in recovering real estate markets. At a minimum, the Senate should pass the year-long extension, as part of must-pass legislation or as a free standing bill.

Reforms of the NFIP

For over four decades, the NFIP has been largely self-supporting, collecting sufficient premiums to cover claims and expenses. In the few years when this was not the case, the program was able to pay back the debt with interest according to the Congressional Research Service. [9] But then in 2005, Katrina, Wilma, and Rita struck and shattered all records including the highest number of Category 5 hurricanes in a season, and the NFIP now owes approximately $19 billion to the U.S. Treasury (including the nearly $3 billion for Ike and Midwest floods of 2008). 2005 was an anomaly. According to the Federal Emergency Management Agency (FEMA), which manages the NFIP, this debt is greater than the sum of all previous losses since NFIP's inception in 1968. Accordingly, NAR supports reforms to strengthen the program's long-term fiscal viability.

At the same time, the housing market continues to be weak as the country recovers from the longest recession since World War II. In the months immediately following the expiration of the homebuyer tax credit, home sales plunged to 15-year lows. Below is NAR's chart of existing home sales. In addition to overall economic weakness, including high unemployment, the housing market is plagued by excess inventory of distressed properties including foreclosures. While affordability remains strong and prices are beginning to show signs of stabilization, the housing market is in a precarious position and cannot afford any further negative shocks.

[8] PIR Study, p. 43.

[9] Congressional Research Service, "National Flood Insurance Program: Background, Challenges, and Financial Status", (July 2009).

The commercial real estate market is also struggling amid the greatest liquidity crisis since the Great Depression. Due to the economic downturn, commercial property values have fallen 43 percent across the board from their peak in 2007. Often it is the owner of America's small businesses—the very engine of job creation and innovation and the backbone of his or her local community—which has suffered most. Compounded with nearly $1.4 trillion in commercial real estate loans coming due over the next several years, and a very limited capacity to refinance, the sales and leasing of commercial properties have been dismal, hindering our Nation's economic recovery. Failing to reauthorize the NFIP long-term not only exacerbates the market uncertainties but also could leave many commercial property owners, many of whom are struggling to stay afloat due to high vacancy rates, without access to affordable flood insurance. The lack of flood insurance for property owners, in many cases, would hold up the sale of commercial properties, further contributing to the economic crisis.

Against this backdrop, NAR would encourage Congress to strike a balance between the following NFIP reforms and real estate affordability, especially for lower-income homeowners and renters who often live in the Nation's lower-lying communities:

Coverage Limits. Additional coverage would attract new NFIP participants. Increasing participation would lead to increased funds for the NFIP, help property owners recover from flood losses and decrease future Federal assistance when under-insured properties flood and suffer loss. Adding options for living expenses, basement improvements, business interruption and the replacement cost of contents would help increase protection for home- and small-business owners. Increasing the maximum coverage limits for residential properties, nonresidential properties, and contents coverage would more accurately reflect increases in property and contents values and provide fuller coverage to policy holders. These limits have not been adjusted despite inflation since 1994.

Education and Outreach. Educating consumers could also increase participation. Many consumers may not be aware that flood insurance is available to them or believe that a standard homeowner's policy would cover flood damage, which is not true. Only 50 percent of homeowners in the federally designated floodplain purchase flood insurance.[10] NAR would support provisions for outreach, education and information to consumers about the availability and importance of flood insurance.

Severe Repetitive Loss Properties. NAR strongly supports extending and fully funding the pilot program to mitigate properties which have repeatedly suffered insured flood losses. While less than 1 percent of NFIP-backed properties fall into this category, severe repetitive loss properties represent a disproportionate share of payouts from—and pose a significant financial burden to—the NFIP. Yet the owners, despite repeated losses, have declined a reasonable offer of mitigation funding from FEMA. Moreover, research conducted by the Multihazard Mitigation Council of the National Institute of Building Sciences has found that each dollar spent on mitigation saves society an average of four dollars.[11]

Pre-FIRM properties. While NAR strongly supports phasing-in higher rates, proportionate to risk, for properties with a repeated or demonstrated history of loss, there is not an equally compelling policy basis to phase-in the rate for all properties built prior to the existence of the flood rate maps (pre-FIRM). In the mid-1970s, Congress grandfathered these properties in under a rate less than the actuarial (full risk) one, because they were built before the flood risk to the community was known and could not have retrofitted to NFIP standards immediately or cost effectively. Changing the rules in the middle of the game for these property owners would have been perceived as unfair and even punitive.

Unlike the repeated/demonstrated-loss properties, many pre-FIRM properties have never filed a claim. Their flood risk has never changed. Yet these owners, who have been paying into the NFIP for years, could be expected to immediately pay significantly more under previous legislative proposals. FEMA estimates that if the average pre-FIRM policy were to pay the full actuarial premium, that premium would be increased to about two and a half times the current level; some properties could see the premium increase more than four-fold. There is a limit to the amount that the insurance, or any other expense, may increase before owners are either forced to sell their properties, or go without insurance. This would have a particularly severely impact on the cost of home ownership and rents especially in older communities as well as those that rely on tourism. This could lead to additional rounds of delinquencies, foreclosures and reduced property tax bases in these communities.

Rate Structure. Over the years, Congress has considered a range of proposals to strengthen the NFIP's long-term solvency, including increasing the statutory limit on the annual rate increase, setting minimum deductibles for claims and phasing in actuarial rates on the less than 20 percent that are pre-FIRM properties. While we continue to have significant concerns about the affordability of these reforms, we would urge the Committee to:

1. Continue to include comprehensive coverage for all residential and commercial properties, including multifamily housing, nonprimary residential and commercial properties;
2. Spread out any rate increases evenly over the entire base over time so that everyone has ample opportunity to adjust to the increases and no one has to shoulder the entire increase in a single year. For example, H.R. 5114 (as passed by the House) would gradually phase-in the rate over at least a 5-year-period that would not begin until 3 years after the date of enactment, rather than immediately. In order to preserve the Federal flood insurance program into the future, the real estate sector recognizes the need for everyone to shoulder their fair share, even if it means paying a little more;
3. Separate out multifamily rental properties of 4 or more units from the nonresidential properties and exclude them from the phase-in, due to affordability concerns. For the renter, the apartment or house in which he or she is living is the primary residence, but could be considered either a commercial property or a nonprimary residence because it is non-owner-occupied. Thus, if the discounted rate were eliminated, tenants would face rent increases that would have a dramatic effect on housing affordability, especially in the case of low and fixed-income individuals and families;
4. Not adopt "back-door" or arbitrary rate increases for all NFIP properties, by requiring FEMA to recalculate "average loss year" to include catastrophic loss years "in accordance with actuarial principles." By law, rates are already set based on actuarial principles (*see,* 42 USC 4015(b)(2)) so reiterating this does not justify the new provision. However, including outlier years in the calcula-

[10] PIR Study, p. 36.

[11] Multihazard Mitigation Council, "Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities, Volume 1—Findings, Conclusions and Recommendations", National Institute of Building Sciences, Washington, DC. (2005), p. 5.

tion of average loss, as this amendment would, will arbitrarily inflate the amount a rate would have to cover and therefore the rate itself; and

5. Study the impact of any rate phase-in on pre-FIRM properties so that the Congress would have a basis to evaluate and adjust the phase-in as necessary. A similar study was included in the House passed bill.

Reserve Fund. We support the concept of establishing a reserve fund to cover the higher than average loss years. However, a previous proposal would have required FEMA to build up the fund by annually putting in hundreds of millions of dollars until an amount numbering in the billions was reached. As a result, the Agency would have had to raise rates somewhere in order to meet this annual quota, however it could not have looked to property owners who were already experiencing rate increases near the annual limitation. Instead it would have had to look those who were voluntarily participating in the program which could undercut future participation. We encourage Congress to ensure that all participants are treated fairly and equitably as the reserve fund is created.

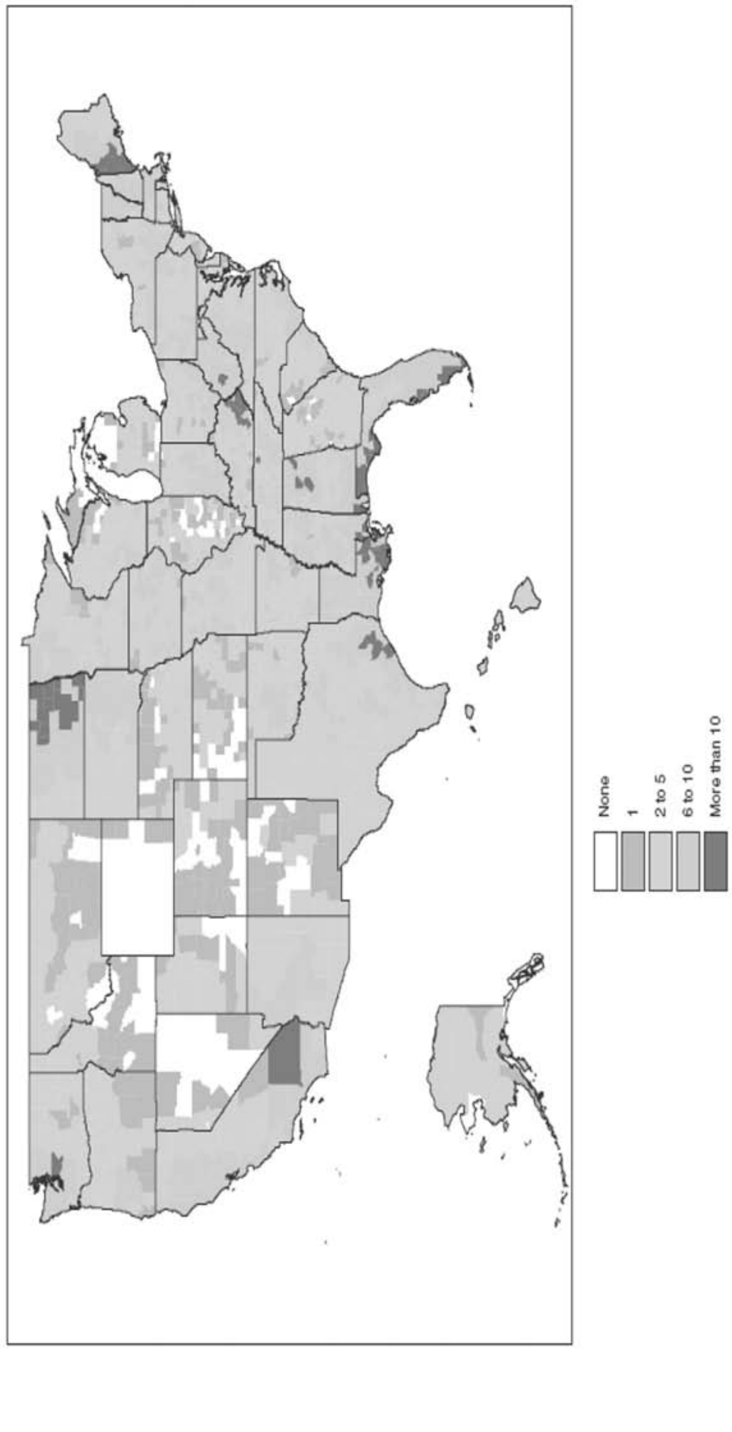
Flood Mapping. Another issue that has been the subject of discussion in recent years is requiring the purchase of flood insurance in the 500-year floodplain. Properties in the 500-year floodplain face a less-than-1-percent annual chance of flooding. This idea poses its own set of challenges and concerns from NAR's perspective, and many are similar to concerns faced by the NFIP in administering the current program. FEMA has been trying to update the 100-year flood maps, but the process itself of digitizing and modernizing is byzantine and slow. Other concerns include accurate mapping of the 500-year floodplain, an accurate assessment of the number of properties that will be impacted, notification of property owners that they now must purchase flood insurance, additional administrative burdens placed on FEMA to administer a much larger program, and keeping homes affordable while avoiding new and costly insurance requirements. Before imposing this requirement on property owners already hard hit by the recession, NAR would recommend a study to assess the costs and impacts of such a new requirement on homeowners and local economies.

Conclusion

In summary, the NFIP fills a void in the private market for critical insurance protections against flood losses which benefit the Nation as a whole. While the House has passed a bill that makes some difficult reforms to the program, it is preferable to the current month-to-month stop-gap extension approach which has only undermined confidence and exacerbated uncertainty in recovering real estate markets. We would encourage the Senate to take up this legislation so that the program may be reauthorized long-term and continue writing flood insurance without further market disruption. We also note several efforts underway for a straight year-long NFIP extension, including one to September 30, 2011, in S. 3607 (Department of Homeland Security Appropriations, FY2011) which has been approved by the full Senate Committee. In any event, we would urge the Senate not to let the NFIP lapse again which would only further undermine the already fragile confidence in recovering real estate markets. At a minimum, the Senate should pass the year-long extension, as part of must-pass legislation or as a free standing bill.

Thank you again for the opportunity to share the REALTOR® community's views on the importance of the NFIP. NAR stands ready to work with Members of the Committee to develop meaningful reforms to the NFIP that will help protect property owners and renters and help them prepare for and recover from future losses resulting from floods.

Figure 1: Number of Major Flood Disaster Declarations by County, 1980-2005



PREPARED STATEMENT OF STEPHEN ELLIS

VICE PRESIDENT, TAXPAYERS FOR COMMON SENSE

SEPTEMBER 22, 2010

Good afternoon, Chairman Dodd, Ranking Member Shelby, Members of the Committee. I am Steve Ellis, Vice President of Taxpayers for Common Sense, a national nonpartisan budget watchdog. Thank you for inviting me here today to testify on reauthorizing the National Flood Insurance Program (NFIP).

Taxpayers for Common Sense has advocated for reform of the National Flood Insurance Program since our inception 15 years ago. This time is easily divided into two sections. The first 10 years our concerns about the program's subsidies and underlying risk to taxpayers were met with skepticism from many quarters. But after the devastating hurricane season of 2005 and with the nearly $20 billion the program is in debt to the treasury, all have recognized NFIP is fundamentally flawed and must be reformed. The question is how.

TCS is allied with SmarterSafer.org, a coalition in favor of environmentally responsible, fiscally sound approaches to natural catastrophe policy that promote public safety. The groups involved represent a broad set of interests, from American Rivers to Americans for Prosperity. From the National Association of Mutual Insurance Companies to the National Flood Determination Association. [1] The depth and breadth of the coalition of consumer, taxpayer, environmental and insurance industry groups underscores the importance of reforming NFIP. I would like to submit for the record SmarterSafer.org's principles for reform of the National Flood Insurance Program.

Stop Digging

Will Rogers' observation that "if you find yourself in a hole, stop digging" has become a cliche, but it's hard to come up with one more applicable to the flood insurance program.

The National Flood Insurance Program is $18.8 billion in debt to the taxpayer [2] and only has annual revenues of $3.1 billion. [3] Even if you exclude interest payments, it would take more than 6 straight years with no claims to pay the debt back. Obviously, this isn't going to happen. With that in mind, any reauthorization of the National Flood Insurance Program must make significant changes to put it on sounder financial footing, not dig a deeper financial hole with loopholes, new insurance lines, or undercutting the program's ability to charge actuarially sound rates.

Taxpayers are staring into a budgetary abyss with predicted average deficits of $1 trillion a year over the next 10 years; [4] we cannot afford to bail out the flood insurance program again and again. People need to be informed of their flood risk and take steps to financially protect their own investments.

Unintended Consequences

After years of *ad hoc* disaster aid being meted out by Congress, the National Flood Insurance Program was established in 1968 to create "a reasonable method of sharing the risk of flood losses through a program of flood insurance which can complement and encourage preventative and protective measures." [5] The program was to make up for a lack of available flood insurance. But even at that time Congress was warned that it was playing with fire. The Presidential Task Force on Federal Flood Control Policy wrote in 1966:

> A flood insurance program is a tool that should be used expertly or not at all. Correctly applied it could promote wise use of flood plains. Incorrectly applied, it could exacerbate the whole problem of flood losses. For the Federal Government to subsidize low premium disaster insurance or provide

[1] Full list is available at *www.smartersafer.org*

[2] Statement of Orice Williams Brown, Director Financial Markets and Community Investment, Government Accountability Office before the Subcommittee on Housing and Community Opportunity, Committee on Financial Services, House of Representatives. April 21, 2010. p. 1. Available at *http://financialservices.house.gov/media/file/hearings/111/brown_4.21.10.pdf*

[3] Congressional Budget Office. "The National Flood Insurance Program: Factors Affecting Actuarial Soundness", November 2009. p. 1. Available at *http://www.cbo.gov/ftpdocs/106xx/doc10620/11-04-FloodInsurance.pdf*

[4] Congressional Budget Office. "Preliminary Analysis of the President's Budget Request for FY2011", March 5, 2010. Available at *http://www.cbo.gov/ftpdocs/112xx/doc11231/frontmatter.shtml.*

[5] P.L. 90-448.

> insurance in which premiums are not proportionate to risk would be to invite economic waste of great magnitude.[6]

Well, we know which way that story unfolded. Although subsidies were largely envisioned to be limited and short-term, they weren't. And while the program has encouraged standards and construction that help reduce flood risks for participating communities, the availability of cheap Federal flood insurance over the last several decades made it financially attractive to develop in high risk areas. Along with other factors, NFIP helped fuel the coastal development boom that increased the program's risk exposure and losses.

To foster increased participation, the NFIP does not charge truly actuarially sound rates, or increase rates based on previous loss experience. The program's goal of fiscal solvency is defined as charging premiums that will generate enough revenue to cover a historical average loss year.[7] That means catastrophic loss years are largely left out of the equation. The program covers any fiscal shortfalls by borrowing from the U.S. Treasury, which is a significant subsidy in itself.

NFIP's fiscal solvency is further challenged because properties that predate a community's involvement in the NFIP or the applicable flood insurance rate map (whichever is later) enjoy significantly subsidized rates, paying only 35–40 percent of their actual full-risk level premium.[8] While the initial thought may be that because of their vulnerability these properties wouldn't be long for this world, a recent analysis by *USA Today* found 1.2 million buildings receive these discounts.[9] FEMA puts the percentage of properties in the NFIP receiving subsidized rates as more than 20 percent.[10]

Furthermore, properties experiencing repetitive losses make up a disproportionate amount of the program costs. A repetitive loss property is one that has had two or more claims of $1,000 over 10 years. These properties represent only 1 percent of the total number of policies, yet account for up to 30 percent of the cost of claims.[11] Properties like one in Wilkinson, MS, that has flooded 34 times since 1978 and received payments worth nearly 10 times the home's $70,000 value. Or another property owner in Houston, TX, that has received $1.6 million worth of claims for a house worth $116,000.[12] We need to help these people out—out of harm's way—and at the same time help the taxpayer who is picking up the tab.

Maps Lead the Way

The NFIP is driven by maps. They determine the veritable alphabet soup of what flood zone your structure is in: A, V, X, or variants within each category. There's a map for that. Your property could be in the 100-year floodplain or the 500-year floodplain; high-risk storm surge zone or special flood hazard areas. Your property could predate the flood insurance rate map (FIRM) or otherwise be eligible for significantly subsidized premiums. The maps are key to the program's success or failure. They must be up to date, accurate and based on the best available science. This is why FEMA's map modernization program is so critical to the long term fiscal viability of the program.

The Nation's floodplains are dynamic. Not just from natural forces, but also the impacts of development and topographical changes. Areas that were previously less likely to flood could now be more likely. Levees that were adequate to provide 100-year protection a decade ago may provide far less due to poor maintenance or increased flood elevations due to increased runoff or new development.

Since 2003, FEMA has been working to update thousands of flood maps. In addition, levees are being reviewed and in some cases decertified for not meeting the required level of protection. According to FEMA, the Nation's special flood hazard areas (SFHA) have grown in size by 7 percent. While this revealed more land and

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[6] U.S. Task Force on Federal Flood Control Policy. "A Unified National Program for Managing Flood Losses", August 1966. p. 17. *http://www.loc.gov/law/find/hearings/floods/floods89-465.pdf*

[7] Thomas L. Hayes and D. Andrew Neal. "Actuarial Rate Review", Federal Emergency Management Agency. October 1, 2010. p. 5.

[8] Congressional Budget Office. *Supra* Note 3 at 6.

[9] Frank, Thomas. "Huge Losses Put Federal Flood Insurance Program in the Red", *USA Today.* August 26, 2010. Available at *http://www.usatoday.com/news/nation/2010-08-25-flood-insurance_N.htm*

[10] Hayes and Neal. *Supra* Note 6 at 22.

[11] Brown. *Supra* Note 2 at 8.

[12] Frank. *Supra* Note 8.

housing is vulnerable to flooding, other areas are less vulnerable. In fact, the number of housing units in SFHAs has seen a net decrease of 1 percent. [13]

Not surprisingly, the map modernization effort has been met with some controversy. In some cases, homeowners are facing steep increases in premiums after many years of paying the same rate. While the uproar is understandable, it doesn't change the underlying geology or the risk. In some cases property owners that didn't have to purchase flood insurance under existing law now find themselves required to do so. But just because it isn't popular doesn't mean it's not the right thing to do. What isn't the right thing to do is ignoring the realities on the ground—literally—and not requiring flood insurance in these instances. Because it means when the inevitable floodwaters appear, the homeowner will not be covered by their regular insurance and the taxpayer will be asked to open up their wallet to bail them out. In fact in some cases it makes sense to purchase flood insurance even if you are not required to do so.

It may be politically expedient and popular to delay map modernization or waive building standards. But what may make good politics generally makes bad insurance policy—and by extension with Federal flood insurance—bad public policy. People deserve to know the cost and risks of where they live. And taxpayers deserve to have those who choose to live in harm's way pick up part of the tab.

I'm not here to say that FEMA and their maps are infallible. However, absent strong scientific evidence of specific inaccuracies, efforts to delay and forestall map revisions must stop. Legislation doesn't alter geology. But that hasn't prevented various lawmakers from introducing legislation to either roll back or delay mapping changes and commensurate rate increases. The House-passed flood insurance reauthorization bill from this summer would delay mandatory insurance for special flood hazard zones and mandate a 5-year phase-in of rates. A better way to ease any sticker shock would be to provide for relatively short phase-ins of actuarial rates or other assistance.

Don't Make Matters Worse

Besides the mapping issue there are other efforts that would take a backhoe to NFIP's deep financial hole. One is the addition of wind insurance, which was wisely—and soundly—rebuffed by the Senate in 2007. It simply doesn't make sense to add a whole new business line to the already challenged flood insurance program. FEMA has no experience in pricing wind insurance, and the flood side has proven challenging enough. Besides, there are existing private wind insurance providers. Part of the whole rationale behind the creation of the NFIP was a lack of private flood insurance providers. I recognize that in the aftermath of Katrina there were concerns that in some cases insurance companies categorized wind claims as flood claims to avoid payouts. That should be investigated and corrected through appropriate mechanisms. But to use those instances to justify a Federal wind insurance program is the tail wagging the dog.

Another related area is the effort to create a new national catastrophe reinsurance program for State-run reinsurers. Again, this would represent a significant Federal expansion into the insurance markets with little justification. Reinsurance—essentially insurance for insurance companies—is widely available and used to hedge an insurance company's risk. However, some States do not want to pay for the actual risks, but want the Federal Government to subsidize reinsurance rates as well. The legislation to create this program asserts that the program would charge actuarially sound rates. [14] This makes little sense. If this program's rates were truly actuarially sound, they would exceed the private market's rates because the program would be forced to sell reinsurance to a very narrow pool of high risk States, whereas the private market could distribute the risk worldwide. But, remember, the Federal flood insurance rates are supposed to be actuarially sound as well. And we already know what happened there.

Reform the Program

Enough about what shouldn't be done, we all know there are big problems, so what should be done to reform the National Flood Insurance Program.

The current model is clearly not sustainable. The subsidies have to be phased out and the program has to move toward actuarial rates. This can be done with a maximum of 20 percent year rate increase for properties paying nonactuarial rates. This

[13] Testimony of Craig Fugate, Administrator, Federal Emergency Management Agency, Department of Homeland Security before the Subcommittee on Housing and Community Opportunity, Committee on Financial Services, House of Representatives. April 21, 2010. p. 4. Available at *http://www.house.gov/apps/list/hearing/financialsvcs_dem/fugate_4-21-10.pdf*

[14] H.R. 2555 "Homeowners Defense Act", Section 303(g).

isn't just about putting the program on more solid fiscal footing and protecting taxpayers. This is also about fundamental fairness within the flood insurance program and eliminating the cross subsidies that has a few properties paying full freight and picking up the tab for properties that have enjoyed subsidized premiums for decades.

There must be a strong commitment to help communities and individuals to reduce their flood vulnerability, including stronger standards for floodplain management and mitigation. Congress should end the problem of repetitive loss properties with elevation and relocation programs, increase the availability of accurate information about flood risks, and ensure adequate enforcement of program rules. In too many cases it appears that communities or property owners have skirted existing rules and rebuilt more than 50 percent of the property while retaining subsidized rates.

More than 40 years have passed since the National Flood Insurance Program was created. There have been significant advances in insurance pricing, evaluation of risk, mapping and imagery. NFIP should work with the private sector to identify areas that the private sector can begin providing flood insurance. This shouldn't leave NFIP holding the bag elsewhere and increasing levels of debt, but it is worth examining.

Finally, last Congress this Committee produced commendable legislation to reauthorize the flood program. In addition to some of the proposals previously mentioned this legislation mandated insurance in residual risk areas—those in the natural floodplain but protected by a levee, floodwall, or a dam. Citizens of New Orleans know all too well that even after a levee is built, the risk remains. The legislation also created a reserve fund for higher than predicted loss years and directed NFIP to charge rates to establish and maintain a balance equal to 1 percent total potential loss exposure in that fund. These are also important elements of NFIP reform.

Conclusion

The National Flood Insurance Program is in trouble and is at a crossroads. The shaky foundation on which it was based has enormous cracks. Congress and the Administration can either remake and strengthen that foundation by putting the program on more solid financial footing or create even greater cracks by adding new business lines or delaying a shift to actuarial rates and updated flood maps.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED FROM ORICE WILLIAMS BROWN

Q.1. *FEMA Map Modernization Efforts.* FEMA has indicated that by the end of this fiscal year it expects to have preliminary Flood Insurance Rate Maps (FIRMs) issued for 92 percent of the Nation's population.

Can you describe the quality of the maps being produced by FEMA? How can they be improved? How many of its "updated" maps are based on new data or modeling; how many are simply digital maps based on old data?

A.1. The precise accuracy of a map is difficult to determine, but as we reported in December 2010, the quality of data used in developing a map is an important determinant of the map's accuracy. We reported in our December 2010 report that FEMA lacks a way to systematically track, at a national level, the types of topographic data or level of project detail used in each study, which limited their ability to effectively and comprehensively describe the accuracy of flood maps. [1] Thus, FEMA lacks a basis to comprehensively describe the quality of the maps being produced or to readily determine how many of its maps are based on new data or modeling and how many are digital maps based on old data. However, to help ensure map accuracy, FEMA has implemented and tracks compliance of individual mapping projects with three standards for ensuring the quality of data used in developing flood maps: FEMA's Guidelines and Specifications that define technical requirements, product specifications for Flood Hazard Maps and related NFIP products, and associated coordination and documentation activities; the Floodplain Boundary Standard (FBS) designed to ensure the locations of the predicted horizontal (floodplain boundary) and vertical (base flood elevation) lines drawn on flood maps are comparable to the topographic data that has been selected for the study area; and two of three elements of the New, Validated or Updated Engineering (NVUE) data standard that was established to provide a basis for assessing the engineering analysis used to develop flood elevations.

In our December 2010 report, we made five recommendations designed to help FEMA address challenges in ensuring the accuracy of flood maps and enhance FEMA's independent verification and validation (IV&V) audit process. Specifically, we recommended that FEMA:

1. Establish separate measures and collect data needed to assess compliance with the Floodplain Boundary Standard for detailed and approximate flood studies, [2]
2. Establish uniform guidance for the validation of existing engineering data to help FEMA fully implement the NVUE stand-

[1] GAO, FEMA Flood Maps: Some Standards and Processes in Place to Promote Map Accuracy and Outreach, but Opportunities Exist to Address Implementation Challenges, GAO-11-17 (Washington, DC, Dec. 2, 2010).

[2] Detailed flood studies incorporate greater amounts of data or more precise data into a map to provide greater granularity of information, for example, by determining base flood elevations within a Special Flood Hazard Area, to reduce uncertainty. In contrast, approximate flood studies generally require less precision in flood hazard data. For example, they are used for areas that are less subject to development and do not require the establishment of a regulatory base flood elevation.

ard and provide a basis for mapping partners to validate flood hazard data.

3. Implement probability sampling during the IV&V audit process to the extent that the benefits outweigh the costs, to ensure that the results are generalizable for decision making;
4. Transfer IV&V duties back to an independent entity to help ensure impartiality; and
5. Adopt a systematic approach to IV&V data collection, so FEMA can better track map quality issues, more easily analyze the data, and adopt a corrective action plan.

In commenting on the draft report, DHS stated that it concurred with our recommendations to enhance its efforts to improve the accuracy of maps and identified actions FEMA had taken or plans to implement them. DHS similarly concurred with two of our three recommendations to enhance its IV&V audit process and identified actions FEMA had taken or plans to implement them. DHS did not concur with our recommendation that the Administrator of the Federal Emergency Management Agency should transfer IV&V duties back to an independent entity to help ensure impartiality. However, we continue to believe that the program management contractor's programmatic responsibilities and involvement prevent it from having a clearly independent role in validating and verifying the results of flood map production activities, because the contractor has a vested interest in overall program performance. Therefore, we believe that FEMA should transfer independent verification and validation duties back to an independent entity to help ensure impartiality.

Q.2. To what extent have funding limitations and program metrics affected map quality?

A.2. Regarding the effect of funding limitations on map quality, we reported in December 2010 that FEMA did not generally provide funding for mapping partners to acquire new topographic data prior to fiscal year 2010, in an effort to conserve resources and share responsibilities, according to FEMA officials.[3] In a study commissioned by FEMA and issued in 2009, the National Academies of Sciences concluded that the quality of topographic data is the most important factor in determining water surface elevations, base flood elevations, and the extent of flooding and, thus, the accuracy of flood maps for riverine areas, which account for approximately 95 percent of FEMA's flood maps. FEMA officials agreed that accurate data are essential and that even the best models cannot produce an accurate flood map with inaccurate inputs, but they said there is a point of diminishing returns where the cost of developing highly accurate topographic data outweighs its overall benefit. Historically, studies at all risk levels could have used the U.S. Geological Survey (USGS) National Elevation Dataset as the best available data, if obtaining better quality data was unaffordable,

[3] Topographic accuracy is a function of detail and age. Detail is important because detailed topography has significantly fewer errors than less detailed alternatives and better accounts for hydraulic structures—structures that affect water flow—such as buildings, dykes, river banks, and roads. Age is important because topography can change over time due to development and ecological factors such as erosion. The topographic data used in mapping studies can have significant variances in age and detail, and thus, accuracy.

according to FEMA officials. Officials from the Association of State Floodplain Managers agreed with this characterization of historical mapping efforts and said that cost constraints limit local governments and mapping partners' ability to collect extensive data, a situation that has resulted, in some cases, in poor map quality. FEMA officials acknowledged that affordability issues have been the main reason high risk areas may rely on USGS data for their study. To address this issue, FEMA officials said they planned to provide $80 million in funding in fiscal years 2010 through 2013 to acquire new topographic data.

Regarding the effect of program metrics on map quality, prior to September 2010, FEMA lacked a metric for the quality of topographic data beyond the minimum standards in its Guidance and Specifications and delineated floodplains using the "best available" existing topographic data for the area being studied. In the absence of data provided by the mapping stakeholder or newly developed for a flood mapping project, a primary source for topographic data was the National Elevation Dataset maintained by the USGS, which is over 35 years old on average. FEMA's historical standards for new topographic data required data that is about 10 times more accurate than USGS topographic data and required topographic data acquired or reviewed within the last 7 years to account for changes such as human development. In September 2010, FEMA established new standards for the level of topographic detail required to ensure that the maps of those areas at the highest risk from flooding have the most accurate topographic data, as suggested by the National Research Council and FEMA's Risk MAP strategy. FEMA published Procedural Memorandum 61 to update its Guidelines and Specifications requiring mapping partners to align FEMA's topographic data specifications to levels of risk for flooding, as well as account for differing characteristics of elevation that can affect the accuracy and precision of base flood elevations. This procedural memorandum identifies the specifications of elevation accuracy and precision needed based on FEMA's previously identified risk classes for all 3,146 counties in the United States. As the National Academies of Sciences report stated, the level of detail used in a study should correspond to the area's risk. FEMA officials stated that they will only be starting new studies in areas where there are already existing updated and accurate topographic data or in areas that have sufficient need and risk to necessitate FEMA's funding the acquisition of such data.

In addition, we made several conclusions in our December 2010 report that led to the recommendations to enhance FEMA's metrics for assessing the quality of flood maps discussed above. Specifically, we concluded that establishing separate measures of compliance for detailed and approximate studies could allow FEMA to better use FBS compliance rates as a measure of map accuracy; however, the data necessary to accomplish this are presently not maintained by the agency. By retaining and analyzing metadata, FEMA could report additional information on FBS compliance and, thereby, have a potentially better measure of map accuracy. Further, FEMA's NVUE standard provides a basis for flood mapping partners to assess the quality of new, validated, or updated engineering data in revising maps; however, establishing uniform guidance for the validation of existing data could help FEMA ensure mapping partners are consistently validating data. This step could help FEMA both track and report the accuracy of maps at the national and regional levels and better assess mapping data needs.

Q.3. Can you discuss the level of coordination that exists among FEMA and other relevant agencies, such as the Army Corps of Engineers, NOAA, USGS, and others, in the development of updated maps?

A.3. While we have not assessed the level of coordination that exists among FEMA and other relevant agencies, such as the Army Corps of Engineers, NOAA, USGS, and others, in the development of updated maps, FEMA's Risk Mapping, Assessment, and Planning (Risk MAP) Multi-Year Plan: Fiscal Years 2010–2014 discusses FEMA's views regarding synergies with other Federal agencies. According to the strategy, FEMA has engaged other Federal agencies in productive partnerships that benefit each entity and works to minimize duplication across the Federal Government:

- FEMA participates actively in National Digital Orthophoto Programs (NDOP) and National Digital Elevation Program (NDEP).[4] These groups work to maximize coordination of Federal mapping, focusing on two key data themes of ground elevation data and ortho-imagery (aerial photo base maps).
- FEMA has an agreement with USGS to fully transfer the management of base map imagery to the USGS to eliminate redundancy and allow FEMA to focus on the production and management of the flood hazard and flood risk layers; FEMA has a Memorandum of Understanding with the Census Bureau to share its inventory of local GIS data; FEMA has a liaison relationship with National Geodetic Survey to exchange technical expertise and align flood hazard mapping and Height Modernization.[5]
- FEMA coordinates with (1) the National Weather Service to share flood hazard mapping data with the National Weather Service Inundation Mapping Program, (2) with the NOAA Ocean Service on coastal mapping standards, coastal science issues, and participation on the Interagency Working Group on Ocean and Coastal Mapping, (3) with USACE and its Flood Risk Management Program.
- FEMA has an agreement with the United States Fish and Wildlife Service to help ensure that Coastal Barrier Resource Systems that affect the availability of Federal flood insurance and other Federal funds are accurately depicted on FIRMs.

[4] The National Digital Orthophoto Programs (NDOP) was chartered in 1993 as a consortium of Federal agencies with the purpose of developing and maintaining national ortho-imagery coverage in the public domain by establishing partnerships with Federal, State, local, tribal, and private organizations. (*see, www.ndop.gov*). The National Digital Elevation Program (NDEP) was established to promote the exchange of accurate digital land elevation data among Government, private, and nonprofit sectors and the academic community and to establish standards and guidance that will benefit all users. (*see, www.ndep.gov/NDEP*)

[5] Height Modernization is a program that uses the Global Positioning System and other new technologies to increase the accuracy of elevation measurements that comprise the vertical portion of the National Spatial Reference System. (*see, http://oceanservice.noaa.gov/topics/navops/heightmodernization/*)

Q.4. Do you believe that provisions included in the 2008 Senate flood insurance reauthorization bill will improve the quality of maps and coordination with other agencies and technical experts?

A.4. Sections 18 and 19 of the 2008 Senate flood insurance reauthorization bill (S. 2284) should help FEMA improve the quality of maps and coordination with other agencies and technical experts.

- Section 18 reestablishes the Technical Mapping Advisory Council. The Council began its work in 1996 and has submitted recommendations to the Director of FEMA in each of its Annual Reports. While we have not assessed the specific impact of FEMA's implementation of the prior Council's recommendations in annual reports, the intent of the reestablished Council as stated in the draft bill supports FEMA's Risk MAP strategy to continue collaboration with local, State, regional, tribal, national, and other Federal partners.
- Section 19 calls for FEMA to establish an ongoing map update program that will include assessment of the effects of erosion and climate change. This provision should help prompt FEMA to address our outstanding concerns regarding these issues. Specifically, we identified concerns related to these issues in assessing FEMA's rate-setting process for the National Flood Insurance Program and in assessing financial risks to Federal and private insurers. In assessing FEMA's rate-setting process for the National Flood Insurance Program (NFIP) in October 2008, we reported that some experts have suggested that incorporating ongoing and planned development, erosion trends, and climate change into flood risk modeling would more fully capture longer-term flood risk exposure, but FEMA does not take these variables into account. [6]

  FEMA's policy is to map Special Flood Hazard Areas (SFHAs) based on current development conditions. However, as floodplains are developed and more ground surfaces are paved or made impervious (nonabsorbent), the risks and expected elevations of flooding increase. As the predicted elevation of the base flood increases, SFHAs subsequently spread beyond mapped boundaries. As a result, in rapidly developing watersheds or where characteristics change significantly due to flood control projects or other natural events, some FIRMs may become outdated shortly after their completion. In addition, some properties could be constructed without proper protection from the flood hazard they may face throughout their life span, and others could be uninsured or subject to insurance rates that do not accurately reflect flood risk.

  FEMA's current flood hazard mapping procedures for coastal areas incorporate storm-induced coastal erosion but not long-term erosion. While shorelines, dunes, and bluffs can retreat during a single storm, long-term erosion at a shoreline is the net result of a variety of factors such as sediment losses from storms and inundation from sea level rise, averaged over several decades. We recommended that the Secretary of the De-

[6] GAO, Flood Insurance: FEMA's Rate-Setting Process Warrants Attention, GAO-09-12 (Washington, DC: Oct. 31, 2008).

partment of Homeland Security direct FEMA to take steps to ensure that the data it uses accurately reflect the risk of losses from flooding. These steps should include, for example, verifying the accuracy of flood probabilities, damage estimates, and flood maps; ensuring that the effects of long-term planned and ongoing development, as well as climate change, are reflected in the flood probabilities used; and reevaluating the practice of aggregating risks across zones. FEMA had not yet taken action to address this recommendation.

In assessing the financial risks to Federal and private insurers posed by climate change, we reported that one important implication of Federal insurers' risk management approach is that they each have little reason to develop information on their long-term exposure to the potential risk of increased low-frequency, high-severity weather events associated with climate change. [7] According to NFIP officials, their risk management processes adapt to near-term changes in weather as they affect existing data. As one NFIP official explained, NFIP is designed to assess and insure against current—not future—risks. Over time, agency officials stated, this process has allowed their program to operate as intended. However, unlike the private sector, the program has not conducted an analysis to assess the potential impacts of an increase in the frequency or severity of weather related events on program operations over the near- or long-term. Agency officials identified several challenges that could complicate their efforts to assess these impacts at the program level. NFIP officials stated there was insufficient scientific information on projected impacts at the regional and local levels to accurately assess their impact on the flood program. We recommended that the Secretary of Homeland Security direct the Under Secretary of Homeland Security for Emergency Preparedness to analyze the potential long-term implications of climate change for the National Flood Insurance Program and report their findings to the Congress. FEMA has yet to issue its report to Congress.

Q.5. Updating a Flood Insurance Rate Map (FIRM) does not necessarily increase the number of properties subject to National Flood Insurance Program (NFIP) mandatory purchase requirements. Homeowners in special flood hazard areas (SFHAs) may find their properties excluded from those areas when an updated flood map is adopted.

Can you compare the number of properties have been added to special flood hazard areas (SFHAs) to the number that have been removed during the last several years of "map modernization"?

A.5. Because FEMA does not assess the number of properties that have been added to SFHAs or the number that have been removed as a result of national flood mapping efforts, these data are not collected or reported. FEMA's mapping efforts are designed to establish the floodplain boundary that describes the SFHA, the area where the NFIP's floodplain management regulations must be enforced and where the mandatory purchase of flood insurance ap-

[7] GAO, Climate Change: Financial Risks to Federal and Private Insurers in Coming Decades Are Potentially Significant, GAO-07-285 (Washington, DC: Mar. 16, 2007).

plies; the agency does not determine whether individual properties or buildings are within an SFHA.

Under current notification requirements, federally regulated lenders, not FEMA, serve as the primary channel for notifying property owners whose mortgaged properties are subject to flood insurance requirements. When property owners seek new financing—through purchase or refinance—federally regulated mortgage lenders are required to determine if the property is in the floodplain, and, if so, require the purchase of flood insurance. Lenders are not required to monitor map changes or to notify property owners with existing mortgages whose properties are identified in a floodplain by remapping if they are not aware of the change in status. [8] Nonetheless, if federally regulated lenders become aware of flood map changes that affect properties for which they hold mortgages through FEMA notifications or flood zone determination companies, then they must notify the property owner and require the purchase of flood insurance. [9] The information that must be provided to property owners is limited to notifying property owners that their structure is in a floodplain, providing a definition of a flood plain, and requiring the purchase of flood insurance if they live in a participating NFIP community.

Q.6. Can you comment on the public participation in the adoption of new maps and how that process can be improved?

A.6. The ultimate success of FEMA's flood mapping program depends on the level of community investment and involvement in the process. In our December 2010 report, we noted that FEMA relies on local governments to provide it with notification of changing flood hazard information and to work with FEMA to collect the information needed to reflect the updated flood hazards on the flood maps. As noted in our report. the National Flood Insurance Act of 1968, as amended, and Federal regulations require that FEMA communicate potential changes in flood risk to the public when it decides to initiate a flood mapping study and when it is ready to release preliminary maps. Specifically, FEMA is required to notify local governments at the beginning of the mapping process, [10] and it must publish the proposed base flood elevations in the Federal Register for public comment and notify the local government of the results of the study when FEMA is ready to release preliminary maps. [11] When the final map is approved, FEMA publishes another Federal Register notice. [12] FEMA is required to maintain docu-

[8] In making loans, federally regulated lenders are required to ensure that property owners purchase flood insurance if their mortgages are secured by a structure located in a floodplain. Lenders are also required to check the flood hazard status of a property when triggered by statutory tripwires, such as loan renewal or extension.

[9] Many lenders use flood zone determination companies to determine whether properties require flood insurance as a result of loan origination, loan assumption, or map changes. These companies use FEMA flood maps and other data to ascertain if properties are situated in flood zones.

[10] FEMA is required to contact community stakeholders, such as the State coordinating agency and other appropriate community officials, to discuss the intent and nature of the proposed flood map study. 44 C.F.R. §66.5.

[11] FEMA is required to publish the proposed flood elevations in a prominent local newspaper at least twice during the 10-day period following the notification of the community chief executive officer. Property owners have 90 days from the second newspaper publication to appeal the proposed flood elevations. 44 C.F.R. §§67.4, 67.5.

[12] Final flood elevations must be published in the Federal Register and copies sent to the community chief executive officer, all individual appellants, and the State-coordinating agency. 44 C.F.R. §67.11.

mentation of selected elements of its public notification efforts.[13] Outside of these statutory and regulatory requirements, FEMA has historically focused its outreach efforts on local government officials and has relied on local officials to inform the community at large (*i.e.,* the public) of flood mapping efforts.[14] However, we identified areas where FEMA could improve these outreach efforts. For example, FEMA is not ensuring that its mapping partners are complying with public notification documentation requirements. Further, FEMA is not collecting and analyzing data on appeals and protests that could be used to gauge public acceptance of flood maps.

To address challenges in improving community outreach, we recommended that the Administrator of the Federal Emergency Management Agency:

1. establish a mechanism to better ensure compliance with the documentation requirements of public notification regulations;
2. collect and analyze data on appeals and protests, including those on ineligible appeals, to the extent that the benefits outweigh the costs;
3. issue guidance to mapping stakeholders to standardize the process for analyzing appeals and protests and submitting this data to FEMA;
4. establish performance goals and measures for promoting public acceptance of flood maps; and
5. develop a reporting structure for regions to use to identify resources needed to conduct flood mapping outreach activities, and implement a risk-based approach to allocate outreach resources; and leverage, as appropriate, existing FloodSmart marketing resources and expertise to help increase public acceptance of flood maps.

In commenting on the draft report, DHS stated that it concurred with our recommendations to enhance its outreach efforts and identified actions FEMA had taken or plans to implement them.

Q.7. What responsibilities do FEMA and localities have to inform the public about map updates at the outset of the process? What is the most important aspect of the flood maps for communities and property owners?

A.7. Federal regulations require that FEMA communicate potential changes in flood risk to the public when it decides to initiate a flood mapping study. At the beginning of the mapping process, FEMA is required to notify local governments.[15] When FEMA is ready to release preliminary maps, the agency must publish the proposed base flood elevations in the Federal Register for public comment and notify the local government of the results of the

[13] 44 C.F.R. §§66.3, 67.3.

[14] Federal law provides that FEMA must encourage local officials to disseminate information concerning a flood mapping study widely within the community, so that interested persons will have an opportunity to bring all relevant facts and technical data concerning the local flood hazard to the attention of the agency during the course of the study. 42 U.S.C. §4107.

[15] FEMA is required to contact community stakeholders, such as the State coordinating agency and other appropriate community officials, to discuss the intent and nature of the proposed flood map study. 44 C.F.R. §66.5.

study.[16] FEMA works with communities to develop new flood hazard data or revise existing data during the flood study process. In general, the study process includes the following activities:

- FEMA holds a scoping meeting with community officials to identify where a new flood study is necessary and the type of study and extent (number of stream miles) of the study.
- FEMA undertakes a flood study to identify the flood hazards and to develop Base Flood Elevations (BFEs) (hereafter referred to as "flood elevations") and floodways for the areas of study identified during the scoping process. In addition, the mapping process includes activities such as obtaining the base map, incorporating Letters of Map Change, and developing the flood hazard database.

The identification of flood hazards serves many important purposes. Identifying flood hazards creates an awareness of the hazard, especially for those who live and work in flood-prone areas. Maps provide States and communities with the information needed for land-use planning and to reduce flood risk to floodplain development and implement other health and safety requirements through codes and regulations. States and communities can also use the information for emergency management.

Each time FEMA provides a community with new or revised flood hazard data, the community must either adopt new floodplain management regulations or amend its existing regulations to reference the new flood map and flood study. In some cases, communities may have to adopt additional floodplain management requirements if a new type of flood hazard data is provided, such as a new flood zone.

Floodmaps are the tool FEMA uses to determine the flood risk homeowners face. Prior to the establishment of NFIP, homeowners had no mechanism to protect themselves from the devastation of flooding and in many parts of the United States unchecked development in the floodplain was exacerbating the flood risk. In addition to providing insurance to property owners, NFIP requires participating communities to enact local floodplain management ordinances that minimize floodplain development and encourage initiatives to reduce flood risk. FEMA's Web site includes information whose purpose is to help homeowners in locating and obtaining copies of their perspective floodmaps, how to read them, and how to request map changes that may be warranted.

Q.8. How are property owners informed after updated maps are adopted? Do homeowners receive any specific information with regard to their properties and how is that information otherwise made available?

A.8. Federal regulations require that FEMA communicate potential changes in flood risk to the public. When the final map is approved,

[16] FEMA is required to publish the proposed flood elevations in a prominent local newspaper at least twice during the 10-day period following the notification of the community chief executive officer. Property owners have 90 days from the second newspaper publication to appeal the proposed flood elevations. 44 C.F.R. §§67.4, 67.5.

FEMA publishes a Federal Register notice.[17] When the study is completed, FEMA provides the community with a preliminary flood map and flood study for review. In addition, FEMA may hold a public meeting—often referred to as the "Final Meeting" to explain and obtain comments on the preliminary flood map and flood study.

- FEMA provides a 90-day appeal period when new or revised flood elevations are proposed. Before the appeal period is initiated, FEMA will publish the proposed flood elevation determinations in the Federal Register and notify the community's chief executive officer of the determination. FEMA will then publish information about the flood elevation determinations at least twice in a local newspaper. The appeal period provides the community and owners or lessees of property in the community an opportunity to submit information on whether the flood elevations are scientifically or technically incorrect.
- At the end of the 90-day appeal period, FEMA resolves all appeals and finalizes the flood map and flood study.
- FEMA then issues a Letter of Final Determination (hereafter referred to as the "final letter"), which establishes the final flood elevations, and provides the new flood map and flood study to the community. The final letter initiates the 6-month adoption period. The community must adopt or amend its floodplain management regulations during this 6-month period.
- The flood map and flood study become effective at the end of the 6-month period. The effective date is also the date when flood insurance rates will be based on the new flood data for new construction built after this date. The effective map will be the one that will be used by federally insured or regulated lenders to determine if flood insurance is required as a condition of a loan.

Q.9. What factors and data does FEMA consider from communities and property owners in deciding whether to adjust maps?

A.9. According to FEMA, factors and data the agency may consider from communities and all local, State, and Federal stakeholders in deciding whether to adjust maps includes any available information on Federal, State, or local flood studies, flood control projects, bridges, culverts, or developments or flooding concerns, and any efforts to gather topographic mapping or aerial photography, or information on significant floods.

Q.10. What funding and technical assistance, if any, are provided to States and communities to help them develop their own capacity to assist in mapping updates?

A.10. FEMA has established two programs to provide funding and technical assistance to States and communities to help them develop their own capacity to assist in mapping efforts, the Cooperating Technical Partners (CTP) Program and the Community Assistance Program.

[17] Final flood elevations must be published in the Federal Register and copies sent to the community chief executive officer, all individual appellants, and the State-coordinating agency. 44 C.F.R. §67.11.

- The purpose of the CTP Program is to provide, through a cooperative agreement, funds to better ensure that CTP partners can perform program management and technical mapping-related activities. Though there is not a financial matching requirement under the CTP Program except as defined by appropriations language, the potential partner should demonstrate its ability to leverage funding received from FEMA. CTP partners that offer significant funding matches will be given priority in allocating funding. FEMA may provide technical assistance, training, and/or data to a CTP partner to support flood hazard data development activities. For example, fundable program management activities include the development of State and local business plans and/or updates, managing technical mapping activities, conducting outreach, providing training to State and local officials, staffing, conducting pilot projects (as defined by the FEMA regional office) and mentoring. Additional fundable activities under the CTP program are summarized in the table below.

Table 1. Fundable Technical Mapping Activities under FEMA's Cooperating Technical Partners Initiative

Activity	Description
Base Map Acquisition	This is a limited funding task where funding can only be provided for base map preparation tasks at the discretion of the Regional Project Officer.
Scoping (up to 10%)	Up to 10 percent of the total estimated funding may be provided to do an extensive project scope that leads to the development of the MAS.
Outreach (up to 10%)	Up to 10 percent of the total estimated funding may be provided to perform outreach activities that directly support the mapping project.
Refinement or Creation of Approximate Zone A Boundaries	The CTP partner works with FEMA to perform analyses to refine zone A boundaries shown on the FIRM or create new zone A areas to be included on the FIRM. Emphasis is placed on automated analysis and production techniques.
Hydrologic and Hydraulic Analyses and Floodplain Mapping (Riverine)	The CTP partner develops digital engineering data and floodplain mapping using GIS-based or traditional hydrologic and hydraulic modeling.
Coastal Flood Hazard Analyses and Floodplain Mapping	The CTP partner develops digital engineering data and floodplain mapping using GIS-based or traditional coastal flood hazard analysis methods.
Redelineation of Detailed Floodplain Boundaries Using Updated Topographic Data	The CTP partner redelineates the effective floodplain boundaries shown on the FIRM using more up-to-date topographic data. GIS technology is used, where available.
DFIRM Preparation	The CTP partner prepares a DFIRM that meets FEMA specifications.
Digital Topographic Data Development	The CTP partner develops digital topographic data for flood hazard identification purposes.
Independent QA/QC Review	The CTP partner performs the independent QA/QC review of specific products and activities.
Post-preliminary Processing	The CTP partner performs post-preliminary processing of flood map studies.
LOMR Delegation	The CTP partner assumes the responsibility of the evaluation of conditional and final map revision requests for the partner's jurisdiction.

Source: FEMA, Fiscal Year 2009 Cooperating Technical Partners (CTP) Program Guidance Version 1.0 October 21, 2008.

- FEMA established the Community Assistance Program to provide funding to States to provide technical assistance to communities that participate in NFIP and to evaluate community performance in implementing NFIP floodplain management activities. Among other things, the program is intended to build State and community floodplain management expertise and capability, and leverage State knowledge and expertise in working with their communities. FEMA Regional Offices and the designated State agency negotiate an agreement that specifies activities and products to be completed by a State in return for funds. In addition, each State is required to develop a 5-Year Floodplain Management Plan (5-Year Plan) describing the activities to be completed using Community Assistance Program funding and how the required performance metrics will be met. Performance standards that address quality of service are to be developed and measured. There is a 25 percent non-Federal match for all States receiving Community Assistance Program funds. The fundable CAP activities include:
    - Performance measurement/5-Year Plan Updates;
    - State model ordinance research and development;
    - Ordinance assistance;
    - Tracking and reporting floodplain management data;
    - Community assistance visits and community assistance contacts;
    - Outreach, workshops, and other training;
    - General technical assistance;
    - Mapping assistance;
    - Coordination with other State programs and agencies; and
    - Assistance to communities in responding to disasters.

Q.11. The House has adopted language in its NFIP reauthorization bill that would establish a 5-year moratorium on the mandatory purchase requirement for properties that are mapped into a special flood hazard area.

Will this provision have any effect on properties that are removed from a special flood hazard area as the result of the adoption of an updated flood map? In other words, would the owners of these properties be able to drop their flood insurance as the result of the new map?

A.11. Section 6(a)(i)(1) of H.R. 5114 proposes a 5-year delay in the effective date of the mandatory purchase requirement specifically for properties in areas that were not previously designated as having special flood hazards. As a result, it would not apply to changes in premium rates for properties in areas that were previously designated as having special flood hazards but are no longer so designated.

Q.12. Is there any way to quantify the impact this provision would have on the financial standing of the program?

A.12. The impact of a potential delay in the mandatory purchase requirement for newly remapped properties depends on the premiums that would be paid for coverage on those properties and the losses they would experience once they enter the program.

The nature of NFIP is such that it primarily insures properties with the highest risk of loss, such as those in SFHAs that are subject to the mandatory purchase requirement. In addition, many of the properties in SFHAs qualify for subsidized premium rates that do not fully reflect the risk of loss from flood damage. The potential impact of a delay in the mandatory purchase requirement would depend on the mix of properties that ultimately ended up in the program after the end of the 5-year period and the occurrence of flood losses. If that future mix of properties paralleled that currently experienced by the program, where just under 25 percent of properties receive subsidized rates, it is possible that adding more properties could actually worsen the financial stability of the program. That is, to the extent that floods do not occur in the added areas, the property owners there would contribute premiums to NFIP but not losses, and thus be a benefit to the program's financial standing. On the other hand, if they do experience losses, it is possible that, because of the properties receiving subsidized premium rates, NFIP could pay out more in damages than it collected in premiums. Ultimately, the impact of adding more properties and a potential delay in adding these properties would depend on the mix of properties added to the program and occurrence of flood losses in the areas added.

Q.13. Despite mandatory participation requirements, many homeowners do not buy or maintain flood insurance. Can you describe the reasons for this and do you have any suggestions on how to improve participation in NFIP?

A.13. While federally regulated lenders are not to make or renew loans on properties in participating communities that are in SFHAs unless the property is covered by flood insurance, the extent to which some homeowners might not purchase such insurance is not known and is a subject of disagreement. As we testified in 2007, viewpoints differ about whether lenders were complying with the flood insurance purchase requirements, primarily because the officials we spoke with did not use the same types of data to reach their conclusions.[18] For example, FEMA officials believed that many lenders frequently were not complying with the requirements, an opinion that they based largely on estimates computed from data on mortgages, flood zones, and insurance policies; limited studies on compliance; and anecdotal evidence indicating that insurance was not always purchased when it was required. In contrast, Federal banking regulators, based on their loan reviews during bank examinations, believed that noncompliance with mandatory purchase requirements was very low. As we reported in 2002, in neither case did the studies or examinations offer a statistically valid projection of the overall participation rate.[19] However, a 2006 FEMA-commissioned study of compliance with the mandatory purchase requirement estimated that compliance with purchase requirements, under plausible assumptions, was 75 to 80 percent in special flood hazard areas for single-family homes that had a high probability of having a mortgage. The analysis conducted did not

[18] GAO. Federal Emergency Management Agency: Ongoing Challenges Facing the National Flood Insurance Program, GAO-08-118T (Washington, DC: Oct. 2, 2007).

[19] GAO, Flood Insurance: Extent of Noncompliance with Purchase Requirements Is Unknown, GAO-02-396 (Washington, DC: Jun. 21, 2002).

provide evidence that compliance declined as mortgages aged. At the same time, the study showed that about half of single-family homes in special flood hazard areas had flood insurance.[20]

With respect to why homeowners might not purchase or maintain required flood insurance, in a previous report we noted that the general public lacks an awareness and understanding about natural hazards and risk.[21] That is, individuals often have a misperception that natural hazard events will not occur in their community and lack a full understanding of the likelihood of an event occurring. As a result, homeowners might be motivated to forego the purchase of flood insurance when possible. With respect to why lending institutions might not enforce mandatory purchase requirements, as noted above, disagreement exists over whether and to what extent this is an issue.

In order to determine how best to increase mandatory participation beyond its current level, whatever it may be, knowing the extent to which compliance is lacking at loan origination, flood insurance renewal, or both is critical. However, disagreement exists over where compliance is lacking and challenges exist to obtaining that information. In our 2002 report, we did analyses that suggested (with some limitations) that noncompliance at loan origination was not a major problem. FEMA, Federal banking regulators, and lenders all agreed with this assessment. However, the 2006 Rand study found no strong evidence that compliance with mandatory requirements declined over time.[22] Fully assessing compliance would require property-specific data on mortgages, flood zone determinations, and flood insurance policies, obtained both at loan origination and at various points during the life of the loan. However, there are a number of challenges to obtaining and assessing this data. These include establishing data reporting requirements for lenders to provide relevant mortgage data, designating an organization to receive and compare these data, and determining the costs and benefits of obtaining these data.

Q.14. Can you comment on how innovations such as group insurance and community insurance can increase participation? Can these measures help reduce costs? What obstacles prevent them from being adopted?

A.14. FEMA's Group Flood Insurance Policy is a 3-year policy with limited coverage purchased on behalf of recipients of Federal disaster assistance following a natural disaster, often low-income persons or those on fixed incomes. For example, following hurricanes Katrina and Rita, group flood insurance policies were purchased on behalf of 36,285 Louisiana homeowners as part of the Federal assistance provided to those homeowners. According to FEMA, the purpose of these group policies is to allow property owners time to recover from the disaster and to be in a better position to buy flood insurance for themselves after the expiration of the 3-year policy

[20] RAND Corporation, The National Flood Insurance Program's Market Penetration Rate: Estimates and Policy Implications, 2006.

[21] GAO, Natural Hazard Mitigation: Various Mitigation Efforts Exist, but Federal Efforts Do Not Provide a Comprehensive Strategic Framework, GAO-07-403 (Washington, DC: Aug. 27, 2007).

[22] RAND Corporation, The National Flood Insurance Program's Market Penetration Rate: Estimates and Policy Implications, 2006.

term. If property owners do not purchase their own flood coverage at that time, they will forego future Federal disaster assistance. While this is not an area that GAO has studied, understanding the percentage of those covered under group policies that ultimately purchased their own policies after the 3-year term expired would be informative in understanding the program's impact on participation.

Community flood insurance, as proposed by some industry advocates, would allow communities participating in NFIP to purchase one policy that would cover all structures within the community. NFIP would determine the premium rate for the community, which would then, in turn, determine how to allocate the cost of the total premium among its residents. While this is not an issue where we have done analyses, it raises questions that would need to be answered, including whether a community policy would increase participation, whether such a policy offers cost savings to NFIP or policy holders, and would any savings to NFIP outweigh the challenges involved in implementing such a policy.

Q.15. FEMA's Community Rating System (CRS) provides localities with an opportunity to reduce premiums for property owners if they adopt measures beyond what is required under NFIP in order to protect against flood damage. Can you comment on CRS as a tool to reduce risk as well as insurance premiums? How can it be improved to meet these goals?

A.15. In a 2007 natural hazard mitigation report, we noted that community planning and mitigation activities, including those done through CRS, can help reduce the risk of loss from natural hazards, and should involve land use plans, building codes, and hazard control structures.[23] We also noted that while less than 5 percent of communities participating in NFIP participated in the CRS program, those participating communities represented around 67 percent of policy holders. We did not analyze the extent to which the CRS program reduced risk or insurance premiums, but we did note that CRS, like other hazard mitigation activities, faced several challenges. For example, mitigation efforts are often constrained by conflicting local interests, cost concerns, and a lack of public awareness of the risks of natural hazards and the importance of mitigation. Any efforts at improving the program's ability to reduce risks and premiums would thus need to address these challenges.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED FROM SALLY MCCONKEY

Q.1. FEMA has indicated that by the end of this fiscal year it expects to have preliminary Flood Insurance Rate Maps (FIRMs) issued for 92 percent of the Nation's population. a) Can you describe the quality of the maps being produced by FEMA? How can they be improved? How many of its "updated" maps are based on new data or modeling; how many are simply digital maps based on old data? b) To what extent have funding limitations and program

[23] GAO, Natural Hazard Mitigation: Various Mitigation Efforts Exist, but Federal Efforts Do Not Provide a Comprehensive Strategic Framework, GAO-07-403 (Washington, DC: Aug. 22, 2007).

metrics affected map quality? c) Can you discuss the level of coordination that exists among FEMA and other relevant agencies, such as the Army Corps of Engineers, NOAA, USGS, and others, in the development of updated maps? d) Do you believe that provisions included in the 2008 Senate flood insurance reauthorization bill will improve the quality of maps and coordination with other agencies and technical experts?

A.1. FEMA expects to have issued Preliminary DFIRMs for 92 percent of the population through the Map Modernization initiative that is just being completed. The quality of the mapping will vary depending on the funding available for the study, when the particular mapping project was initiated and the level of State and community involvement in the process.

a) The single most important factor in the quality of the map is the funding available for producing the map. If the map simply digitizes old data, or is done by approximate or limited detail methods, or with old and inadequate topo maps, the quality of the map may well not be adequate. Because there was limited funding, FEMA chose to digitize existing data for most of the mapping under the map modernization program. Due to program metrics which required that new maps be issued for specified percentages of the population in specified periods of time, the original phase of Map Modernization resulted mostly in moving the mapping inventory from paper maps to a digital platform. The funds allocated were not sufficient to include new engineering analyses for all studies and still meet program metrics. The conversion to the geospatial platform was a significant increase in the quality of the mapping simply through better registration to accurate base maps and enhanced further where updated high resolution topography was available. The quality of the maps will also vary depending on when in the Map Mod they were produced. Over the course of Map Mod (midcourse adjustment) quality assurance checks were implemented which resulted in improving the quality of the maps. The quality of the maps will vary depending on what quality assurance controls were in place when the maps were prepared. Many States were closely involved with decision making regarding the extent of new engineering data incorporated. Through the Coordinated Needs Mapping System database development currently underway, FEMA will have data on adequate engineering studies and those needing new engineering that can be used to prioritize future studies during Risk MAP. The maps can be improved by expanding State and community participation in the process and by processes to improve the accuracy at every step in the process. This may result in slowing down the number of maps produced, but will greatly improve community acceptance of the maps.

b) Funding for Map Mod was not sufficient to secure new engineering study data for all counties in the Nation. FEMA and the States had to weigh trading new study data for fewer maps moved to digital formats. Because of funding limitations there remain counties that still have only paper maps and areas where the study data does not reflect existing conditions. When States did not actively participate in the planning process for DFIRM mapping, the FEMA program metrics were the drivers in prioritizing projects and the scope of work.

c) The level of coordination between FEMA and the USACE has been steadily improving. At the national level there have been regular meetings such as the Intergovernmental Food Risk Management Committee (IFRMC) which is an ongoing process to involve State and local mapping and flood risk management partners. The USACE Silver Jackets Program is one good mechanism to gain the regional/State level coordination.

d) The 2008 Senate bill has a number of important mapping provisions, *e.g.,* authorizing continued funding for mapping that will have an impact on improving flood hazard identification and coordination among agencies. The 2008 Flood Insurance Reform bill, as passed by the Senate, provides for significant additional mapping tasks such as mapping the 500 year floodplain, areas affected by erosion and areas affected by sea level rise. The measure also includes provision for inclusion of mapping data from other Federal agencies, such as the Army Corps of Engineers' inundation maps and the Fish and Wildlife Services' Coastal Barrier Resource Zone (COBRA) maps.

Q.2. Updating a Flood Insurance Rate Map (FIRM) does not necessarily increase the number of properties subject to National Flood Insurance Program (NFIP) mandatory purchase requirements. Homeowners in special flood hazard areas (SFHAs) may find their properties excluded from those areas when an updated flood map is adopted.

Can you compare the number of properties have been added to special flood hazard areas (SFHAs) to the number that have been removed during the last several years of "map modernization"?

A.2. Updating the Flood Insurance Rate Maps does not necessarily increase the number of properties shown in the floodplain. There are two independent sources that indicate the number of properties newly shown in a SFHA is very nearly the same number of properties removed from a SFHA, within about 1 percent. In May 2010, FEMA used a large sample of completed digital flood maps and compared the change of housing units which had a change in SFHA (in or out) and found a positive 1 percent increase in housing units now shown in a SFHA. The National Flood Determination Association did a preliminary evaluation of changes in property determinations for SFHA and that data indicated about as many properties were newly identified in an SFHA as properties newly shown no longer in an SFHA. It is important to keep in mind that in part, Map Modernization was initiated because Flood Insurance Rate Maps had inaccuracies due to a variety of reasons, so changes in the SFHA would be expected.

Q.3. Can you comment on the public participation in the adoption of new maps and how that process can be improved?

A.3. Public participation, including community leaders and staff, is extremely important throughout the mapping process for many reasons. FEMA's Risk MAP plan for 2010–2014 emphasizes public engagement starting even earlier in the study to improve the process.

With full engagement this should reduce the number of communities and/or community leaders who have concerns with the technical data and the areas shown at risk of flooding on the Flood Insurance Rate Maps. The motivation for denying that flood risk exists varies as do the tactics to delay showing the risk on the map.

Improved capacity for FEMA and the States to provide technical assistance to communities could enhance their ability to effectively engage in the process and to facilitate public participation.

Q.4. What responsibilities do FEMA and localities have to inform the public about map updates at the outset of the process? What is the most important aspect of the flood maps for communities and property owners?

A.4. FEMA has certain prescribed responsibilities with respect to public notification, which varies depending on the nature of the mapping projects. Local governments that participate in the NFIP also have responsibilities to notify their citizens who are at risk of flooding, which is the role of accurate maps. Some communities and States send postcards to their citizens who are shown in mapped flood hazard areas. Communities and property owners often do not fully appreciate their exposure to floods and thus object to maps showing areas that are special flood hazard areas. Frequent, sustained communication about flood risk and risk management is needed, not just during the mapping process, but as part of an ongoing awareness.

Q.5. How are property owners informed after updated maps are adopted? Do homeowners receive any specific information with regard to their properties and how is that information otherwise made available?

A.5. Property owners may be informed about updated mapping through a number of channels. The minimum requirement is a public notice in the local newspaper. More often property owners are alerted to a change in the flood hazard status of their property when a federally backed mortgage is in place and periodically reviewed. The most effective means of communication is when the local entities reach out to the public with data about the flood hazard identification. FEMA's Risk MAP program will take advantage of the digital platform of most floodplain maps by using geospatial analyses to identify properties that have a changed flood hazard status during mapping updates. This will allow focused outreach to those property owners. The Risk MAP product is called "changes since last map" and should be supported. However, preparing such products will utilize mapping dollars and adequate funding to continue to produce new maps needs to be augmented with adequate funding for outreach and communication.

Q.6. What factors and data does FEMA consider from communities and property owners in deciding whether to adjust maps?

A.6. Communities and individuals can submit to FEMA their concerns about inaccurate mapping. These are typically anecdotal, but could include technical data. The Risk MAP plan incorporates objective information such as the validity of the engineering data based on changes in watershed development or storm events, availability of topographic data, risk (often represented by population) and other data that communities provide in identification of projects. Communities have the responsibility to notify FEMA when there are changes in the watershed or more specifically changes to the watercourse that effect the extent of flooding. Unfortunately, many communities are lax in providing this information. Continued, persistent outreach and education to communities is essential. Communities and individuals may ignore requests for participation and for data and only engage after the mapping is complete and they become aware of changes. Other communities are actively engaged in working with FEMA and the State to provide data and input, thus resulting in accurate maps.

Q.7 What funding and technical assistance, if any, are provided to States and communities to help them develop their own capacity to assist in mapping updates?

A.7. Cooperating Technical Partnerships is the mechanism in which qualified communities can participate in the mapping process with FEMA. A few larger communities have that expertise, but generally States or counties enter into the partnership with FEMA. When FEMA has a mapping project, whoever is responsible for the project development is required to engage and invite the communities to participate in the mapping process through a series of required notifications and meetings, which has some funding as part of the study costs. Additional capacity at FEMA to provide mapping partners with specific funding and guidance to ensure communities can more fully participate in the process would be helpful.

Q.8. The House has adopted language in its NFIP reauthorization bill that would establish a 5-year moratorium on the mandatory purchase requirement for properties that are mapped into a special flood hazard area. a) Will this provision have any effect on properties that are removed from a special flood hazard area as the result of the adoption of an updated flood map? In other words, would the owners of these properties be able to drop their flood insurance as the result of the new map? b) Is there any way to quantify the impact this provision would have on the financial standing of the program?

A.8. a) Yes. Properties no longer shown as being in a Special Flood Hazard Area (SFHA) would no longer be required to purchase flood insurance. b) ASFPM assumes that FEMA would be able to provide an estimate based on projected numbers newly out of a SFHA and newly in a SFHA. FEMA is likely to make an effort to retain policies on properties newly mapped as out of a SFHA, but those policies would be available at a significantly reduced premium rate.

Q.9. The House's proposed moratorium on the mandatory purchase of flood insurance will not prevent the adoption of new maps. As a result, the risks depicted on new maps will be known and disclosed. a) With updated maps in hand, how do you believe lenders will react? Can and will lenders still require homeowners to purchase flood insurance, notwithstanding the moratorium, in order to limit their risk? b) If new maps are not adopted or disclosed to the public, what are the consequences to public safety, property risk, *etc.*?

A.9. a) There may be some compliance questions since lenders are expected to utilize the most recently issued flood insurance rate maps. Response to this question is not within the ASFPM's area of expertise, so we hesitate to speculate. b) Not disclosing flood risk information to the public means that the Government is withholding information that is critical to individual decisions about safety and protection of life and property and to local community decisions about management of flood risk and future development and redevelopment.

Q.10. Despite mandatory participation requirements, many homeowners do not buy or maintain flood insurance. Can you describe the reasons for this and do you have any suggestions on how to improve participation in NFIP?

A.10. The provision of mandatory insurance applies to only a subset of property owners, those with federally backed mortgages. Property owners who own their homes outright or do not have a federally backed mortgage may not be aware that their property is in the floodplain. However, perception of lack of risk by property owners is likely the primary reason that flood insurance is not purchased or purchased and dropped. Those who have not experienced a flood do not comprehend or acknowledge the damage they could face. Often, property owners believe the Federal Government will cover their loss from flooding, but while disaster assistance provides some minor assistance, it does not provide good financial security that insurance would provide. Affordability is another reason mentioned by some for not purchasing flood insurance or for dropping insurance. For this reason ASFPM has suggested a voucher program in HUD to provide means tested vouchers for flood insurance for those who truly cannot afford it.

Q.11. Can you comment on how innovations such as group insurance and community insurance can increase participation? Can these measures help reduce costs? What obstacles prevent them from being adopted?

A.11. Innovations such as group insurance and community insurance show great promise for a number of reasons. Group insurance for those protected by structures, such as levees, integrates the insurance as part of their flood risk reduction plan and ensures that everyone, regardless of their mortgage type or lack of mortgage, has insurance in these areas of residual risk. Individuals often have little or no input on decisions that can increase their individual or their communities' exposure to flooding or increased risk. Communities guide land use decisions and infrastructure support; thus are the appropriate stewards to ensure adequate insurance protection to reflect the risk associated with those decisions. They can choose to make development decisions that reduce their risk and lower premiums, or they can make bad development decisions, which will impact all citizens in the community who will then pay higher premiums. Group insurance for areas behind levees or community group policies could greatly incentivize community or levee district officials to take actions to reduce risk, resulting in lower premium costs. In these situations, the cost of coverage would presumably be built into local tax or fee structures.

FEMA is engaged in a major study of ways to improve the NFIP called "Re-thinking the NFIP," with a report and recommendations expected within the next year. Ideas such as these group policies are among those under study.

Q.12. FEMA's Community Rating System (CRS) provides localities with an opportunity to reduce premiums for property owners if they adopt measures beyond what is required under NFIP in order to protect against flood damage. Can you comment on CRS as a tool to reduce risk as well as insurance premiums? How can it be improved to meet these goals?

A.12. CRS is indeed an important tool for communities to take actions to reduce flood risk or to educate their populations on flood risk and mitigation options—resulting in reduced premiums. Communities are rated according to their actions and activities in this regard. One way to improve communities' ability to participate in the CRS program and improve their ratings would be to improve support and funding for the Community Assistance Program (CAP). Through the CAP program State NFIP Coordinators can work directly with communities in their jurisdictions to understand this fairly complex program and to upgrade their CRS approaches.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED FROM J. NICHOLAS D'AMBROSIA

Q.1. The House's proposed moratorium on the mandatory purchase of flood insurance will not prevent the adoption of new maps. As a result, the risks depicted on new maps will be known and disclosed.

With updated maps in hand, how do you believe lenders will react? Can and will lenders still require homeowners to purchase flood insurance, notwithstanding the moratorium, in order to limit their risk?

A.1. The National Association of REALTORS® (NAR) supports provisions which help property owners adjust to rate increases when a property is newly mapped into the floodplain. While this would effectively delay the Federal mandate, it would not prohibit the lender from requiring flood insurance. Once the property is mapped into the floodplain, lenders would still have a strong financial interest to limit their risk.

Q.2. If new maps are not adopted or disclosed to the public, what are the consequences to public safety, property risk, *etc.*?

A.2. It depends on the accuracy of the new flood maps. If the maps were accurate, adopting and disclosing them could reduce risks to property and public safety. However, there is also considerable evidence to the contrary. For example, during the hearing, Senator Schumer pointed to the example of Wheatfield, NY, where FEMA recently removed hundreds of properties from the new maps after the town challenged the findings. These are owners that were required to buy flood insurance when, in fact, the risk did not justify the cost. NAR supports improving the accuracy of flood mapping technology, to enhance public safety and reduce property risk.

Q.3. Despite mandatory participation requirements, many homeowners do not buy or maintain flood insurance. Can you describe the reasons for this and do you have any suggestions on how to improve participation in NFIP?

A.3. Flood insurance is required to obtain a federally related mortgage loan. The requirement does not apply to cash purchasers (up to 28 percent of purchases according to a recent NAR survey) or those financing with a private lender which is not federally regulated nor sells to a GSE. NAR believes that an incentive-based approach would strengthen program participation. Adding types of coverage to include living expenses and business interruption and updating coverage limits (that have not been adjusted since 1994) would make the NFIP more attractive to voluntary participants. There could be more education and outreach to address common myths which get in the way of participation.

Q.4. Can you comment on how innovations such as group insurance and community insurance can increase participation? Can these measures help reduce costs? What obstacles prevent them from being adopted?

A.4. As Resources for the Future describes this concept,

> One way to ensure that all homeowners will be covered when a flood strikes is for the NFIP to insure communities instead of individuals. As Leonard Shabman has discussed, local governments or flood risk management districts could purchase a policy from the NFIP that would cover all the structures in the jurisdiction, for all flood risk and not just 1 percent, up to the NFIP coverage limit ($250,000 building coverage for residences and $500,000 building coverage for businesses). The local entity would recover the cost by assessing each property, perhaps as an incremental increase to the property tax. The local jurisdiction could decide how to allocate costs, whether based on FEMA rates or otherwise. As a result, any cross-subsidization in prices would become a local issue, not a Federal one. (Please see Carolyn Kousky, "Reforming the National Flood Insurance Program," Issue Brief 10-01 [February 2010]).

Requiring every property owner in a community to purchase flood insurance, even when the flood risk does not justify the cost, is not the answer. While this may broaden the rate base and reduce the cost per property, objections to expensive flood insurance which is not necessary, would present the most significant obstacle to widespread community adoption.

Q.5. FEMA's Community Rating System (CRS) provide localities with an opportunity to the reduce premiums for property owners if they adopt measures beyond what is required under NFIP in order to protect again flood damage. Can you comment on CRS as a tool to reduce risk as well as insurance premiums? How can it be improved to meet these goals?

A.5. NAR supports voluntary, incentive-based approaches to mitigation such as CRS's. However, only a fraction of NFIP communities participate and we have not received many comments from REALTORS®, who could benefit from improving program participation. Lack of education about CRS benefits and requirements have been cited as contributing factors (*www.ksda.gov/dwr/content/314/cid/1715*). At least one expert has pointed to the link between the CRS and the Building Code Effectiveness Rating Schedule as a potential deterrent; for more, please see: *www.sgccnetwork.ning.com/group/hazardresilience/forum/topics/flood-insurance-premium?commentId=3284163 percent3 AComment percent3A4397&groupId=3284163 percent3AGroup percent3A4276.*

Additional Material Supplied for the Record

STATEMENT SUBMITTED BY SENATOR MARK PRYOR

Chairman Dodd and Vice Chairman Shelby, thank you for holding today's hearing on the National Flood Insurance Program. I appreciate your attention to this important topic.

For the past several years, I've been working to address FEMA's flood map modernization process. In Arkansas, we have had repeated problems with the implementation of the Flood Map Modernization Program. The problems center around two basic themes. The first is in regard to levee certifications. We have some communities that gained ownership and responsibility of their levees years ago—maybe 30 or 40 years ago. And these levees may or may not have been maintained properly.

We can play the blame game all we want, but the point is that now we are in a situation where there are a good number of locally owned levees that need serious repairs and modernizations in order to be certified. This takes money. These communities lack the resources to certify and potentially repair the levees. There is very little Federal money available to help communities bring their levees up to code which can result in a community's inability to have levees depicted on the flood maps. And in some cases, they do not have adequate time to complete repairs and upgrades before the flood maps are finalized.

The second theme is in regard to what happens after a levee is certified—either by the U.S. Army Corps of Engineers or by another entity. There are ongoing issues in Arkansas regarding the proper way to depict the level of protection provided by a certified levee on the updated flood maps. This is a huge issue in my State because the classification of certified levees on FEMA's updated maps affects both fairness and economic development.

The Mississippi River, which is the eastern border of my State, has a vast levee system that protects the communities along the river. This is a $32 billion investment of Federal, State, and local funds. I have concerns that this significant investment in flood protection is not being accurately depicted on FEMA's flood maps. I also have concerns that if a needed repair is identified during the certification process, that there is not adequate time and money for the U.S. Army Corps of Engineers to complete necessary upgrades or repairs before the maps are finalized.

We need some real solutions to the problems we're facing. Many Senators have been working on this issue for a long time with very little real, concrete progress made on addressing our concerns about transparency, flexibility and communication. I am frustrated, my constituents are frustrated and I am sure many of my colleagues are frustrated. I am frustrated because it seems like FEMA has dismissed my concerns as trivial rather than working with Congress to find a real solution to the problems facing my constituents.

Let me emphasize that I do support modernizing our maps. I think it's a good thing to do and something that we should do. I am not supportive of the way in which the flood maps have been updated. There are several things I'd like to see change in order to make this process run more smoothly.

First, I support a 5 year moratorium on mandatory flood insurance purchase for communities that are newly mapped as "special flood hazard areas." Representative Waters included a provision to do this in her legislation, H.R. 5114. Second, I would like to see a 5-year phase-in of flood insurance premiums for individuals purchasing flood insurance for the first time. This provision is also included in H.R. 5114.

Third, I would like to see FEMA differentiate the Mississippi River and Tributaries levee system from other levee systems on their maps. This levee system is one the most, if not the most, advanced and successful flood control structures in the world. This is a result of a $32 billion Federal, State, and local investment. That investment should be shown on FEMA's flood maps.

In closing, I'd like to again thank Senators Dodd and Shelby for holding today's hearing and for allowing me to provide a statement. I will continue to work to address the problems that my constituents are facing with regard to the National Flood Insurance Program and FEMA's Map Modernization Program. I look forward to working with the Banking Committee in doing so.

LETTER SUBMITTED BY ADAM KOLTON, SENIOR DIRECTOR, CONGRESSIONAL AND FEDERAL AFFAIRS, NATIONAL WILDLIFE FEDERATION

NATIONAL WILDLIFE FEDERATION

American Rivers
Thriving By Nature

September 22, 2010

Honorable Christopher J. Dodd
Senate Banking, Housing, and Urban Affairs Committee
534 Dirksen Senate Office Building
Washington, D.C. 20510

Honorable Richard C. Shelby
Senate Banking, Housing, and Urban Affairs Committee
534 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Reauthorization of the National Flood Insurance Program

Dear Chairman Dodd and Ranking Member Shelby:

On behalf of American Rivers, the National Wildlife Federation and our organizations' collective millions of members and supporters, we appreciate your attention to the need for reauthorization and reform of the National Flood Insurance Program (NFIP). In support of that goal, we offer the following comments.

Although the NFIP has for decades helped many people who have suffered flood losses, and has helped to better inform people about flooding risks, the program faces major challenges and shortcomings that must be addressed though comprehensive reform. Challenges include: increasing intensity and frequency of precipitation events and resulting floods from changes in watershed development, changing climates and increasing sea-levels; increases in population density and development in and near sensitive wetlands, rivers, floodplain and upland areas; a $19.6 billion debt to the Federal Treasury; outdated and inaccurate floodplain maps; a highly-subsidized rate structure that encourages unwise building and rebuilding in floodplains; and finally, maintaining and repairing flood control structures (to address the de-accreditation of thousands of miles of levees throughout the nation).

The nation is in desperate need of a comprehensive approach to reducing flood risk – one that increases resiliency and protects communities and the environment. Bold action is needed because our past strategies are failing to adequately address these critical concerns. At present we face a future in which population growth and movement into flood prone areas will cause added pressure to build in even more hazardous and sensitive areas – areas which should remain undeveloped and preserved to buffer communities from storm events and floods. The NFIP and a range of other Federal programs must be adjusted to alter such an unfortunate and misguided outcome.

Natural systems like wetlands, floodplains, upland and coastal areas will naturally buffer communities from the impacts of a changing climate by storing flood waters and reducing impacts from storms. Rather than encouraging citizens to develop and rebuild in hazardous areas, the Federal government should strategically invest in coordinated efforts to mitigate future flood risk. To truly safeguard communities, reforms to the NFIP must provide financial and regulatory incentives to work with nature, not against it.

Efforts to reform the NFIP must include the following:

- All rates should be moved to actuarial levels to reflect the true risk of flood hazards. There must be a strategy to provide flood insurance coverage for low income homeowners living in harm's way. Options based on need must be available to cover low income homeowners and renters while also encouraging the mitigation of risk.
- Flood hazard maps and risk identification should be substantially improved and expanded to include potential inundation areas below dams and behind levees and other flood control system structures in the event of failures, and to reflect a range of other flood risks such as erosion areas, ice jams and other hazards.
- Flood maps should also be expanded to reflect reasonably foreseeable risks from climate change and sea-level rise effects, and should identify more than simply the risk of a 1-percent annual chance flood level, but include a variety of flood potentials and risks based on reasonably anticipated future conditions, including changes in land use and watershed development and effects of urbanization.
- Flooding risks must be much better communicated to the public.
- Mandatory flood insurance purchase requirements should be expanded – not contracted – to include areas with these additional risks.
- Improved and stronger land use regulations, building codes, and building elevation requirements and freeboards should be required and implemented, including limitations on floodplain filling and construction in places such as natural floodways, on barrier islands and coastal surge zones, and in areas providing important natural and beneficial ecological functions, fish and wildlife habitat and natural services (such as water quality, groundwater recharge, and sediment and erosion control).
- Inter-agency hazard mitigation, protection, and restoration of key natural and beneficial functions must be made the heart of the NFIP's risk reduction strategy – not a side exercise.

We are greatly encouraged by the Federal Emergency Management Agency (FEMA) Director Craig Fugate's and the Obama Administration's "Rethinking the NFIP," an 18-month review of the NFIP that is intended to result in administrative and legislative recommendations to guide the course of this program into the future. Given that this review is underway, we urge that the NFIP be reauthorized for no longer than 2 – 3 years at this time. This would allow for FEMA's review process to engage stakeholders and generate legislative and administrative recommendations and options for reforming the NFIP, while also providing stability to the program during this interim period.

We appreciate your consideration of our concerns and recommendations regarding the reauthorization and reform of the NFIP and we very much look forward to working with the Committee as this important process continues.

Sincerely,

Andrew Fahlund
Senior Vice President for Conservation
American Rivers

Adam Kolton
Senior Director, Congressional and Federal Affairs
National Wildlife Federation