

Subcommittee on Housing and Community Opportunity

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**National Flood Insurance Program and
FEMA's Repetitive Loss Mitigation Strategy**

**Congressman Richard H. Baker
Sixth District, Louisiana**

I appreciate the opportunity to share with the subcommittee my thoughts and concerns regarding the serious problem facing the National Flood Insurance Program due to repetitive loss properties. This is the second hearing on this topic in the last two years and I commend you, Chairwoman Roukema, for continuing this examination and policy discussion. As the subcommittee moves forward, please know I will work with you to craft a policy that will be fair to homeowners and maximize FEMA's ability to limit repetitive losses in the NFIP. Let me also say I have a great deal of respect for my co-panelists today. Mr. Bereuter, Mr. Bentsen, and Mr. Blumenauer have all spent a good deal of time studying the repetitive loss problem and have introduced thoughtful pieces of legislation on this subject. I look forward to working with these and other interested members on this important issue.

Madam Chair, this hearing is indeed timely. As Mr. Bentsen can testify, Tropical Storm Allison has ravaged great portions of Louisiana and Texas. In Louisiana, there have been 28,313 Allison-related claims filed with FEMA for flood related damages and over \$15.5 million has been released by the agency. Thankfully, many of my constituents were prepared for Allison by having purchased flood insurance. Knowing that their road to recovery will be less rocky because of their foresight is one of the main reasons I believe federal flood insurance must remain widely available to all Americans who wish to purchase coverage.

Why is it Important that Federal Flood Insurance be Available?

Contrary to what we would like to believe, 500-year storms do happen, and while I know that a 500-year storm only has a 0.2 percent chance of occurring in any given year, it seems that Louisiana has lady's luck with these "rare" storms. In fact, around south Louisiana they show up much more often than every 500 years. On the Federal Emergency Management Agency's list of "Significant Flood Events" from 1978, until June 7, 2001, Louisiana makes the list nine times. This list includes such storms as Hurricane Andrew, and just recently Tropical Storm Allison.

When storms such as these devastate an area, nothing can stop them. The foresight to purchase flood insurance becomes a necessity. For some of the families whose lives are severely interrupted, the only feasible way to attain their previous lifestyle is through the NFIP. In my home state of Louisiana, the average payment on a claim from 1978 - 2000 is \$10,856.74. It is unrealistic for Congress to expect my constituents to come up with this kind of money every few years. We need federal flood insurance.

The federal government has implemented a public policy of assistance for families or individuals aggrieved by natural disasters. This public policy has been widely embraced around our nation. In fiscal year 2000 alone, the NFIP issued 4,269,694 policies resulting in the program collecting \$1,475,195,000 in premiums. Every policy written and every dollar collected by the NFIP results in less money the federal, state, and local governments pay for these disasters. The federal government guaranteed people that if they participated in good faith in the flood insurance program that this insurance would remain available to them. The American people have responded by embracing the program. This is why Congress must act in a responsible and fair manner to solve the repetitive loss problem so that the NFIP will remain available to our constituents.

The Problem of Repetitive Losses

Repetitive loss properties drain resources from the NFIP. These properties have cost the NFIP \$3.8 billion on 253,000 claims. This figure accounts for 38% of the historical losses to the NFIP. First, let us be very clear and up-front, a large number of repetitive loss properties are located in Louisiana. According to FEMA's statistics, Louisiana has the greatest number of repetitive loss properties out of any state in the union. There are 9,334 repetitive loss buildings insured by the NFIP that have sustained 29,528 losses. Because of this, the subject at hand is of tremendous importance to my constituents.

Part of the reason there are so many floods in my area is a simple function of geography, geology and hydrology. Louisiana is located at the mouth of the Mississippi River. We get everything that comes down the river, and that means a tremendous amount of water. Second, the elevation Baton Rouge is only 60 feet above sea-level. Furthermore, the land is a gentle slope from Baton Rouge down to the Gulf of Mexico which means everything south of Interstate-10 quickly approaches sea-level. The final factor is hydrology, or basically how wet the soil is. Our ground water levels are pretty high which means that any significant amount of precipitation can cause big problems. As a result, any major storm that moves through our area usually results in flooding.

Personally, I can tell you that we would rather it not flood quite so often, but there is very little we can do about it. In spite of this, we are trying. Last year my constituents actually agreed by a two-to-one margin to tax themselves for a major flood control project. Let me explain the significance of this vote. These people have been known to wade through a mile of waist-high flood water for the sole purpose of voting against a tax to raise revenue for flood control projects. I say this in jest, but there is a large degree of truth to it. My constituents don't like taxes, much less new ones, but they understood the importance of the project. This project, the Comite River Diversion Canal, will lower flood levels in the affected area by one to six feet. The federal government is paying a portion of this multi-million dollar project, but a sizeable portion is being picked up not only by the State, but by the local residents themselves. Again, we can't stop a flood, but we are taking reasonable steps to protect our homes, schools, churches, and businesses.

Despite the Repetitive Loss Problem, the NFIP Remains Strong

The NFIP experiences an average loss of \$200 million per year comes from repetitive loss properties. As I said earlier, the NFIP has paid out \$3.8 billion to these properties since

1978. This is too much of a loss for anyone to live with. How can this program survive paying \$200 million a year to the same group of properties? Imagine what could be done with the savings.

Since the inception of the NFIP, its premium revenue has increased dramatically. In 1970, premiums collected totaled \$373,000. In just ten years that number exponentially increased to \$153,985,000. In 2000, the NFIP collected \$1,374,740,000 in premium revenue alone, and total revenue peaked around \$1.47 billion dollars. Currently, the program issues 4,269,694 policies insuring over \$500 billion dollars of property.

Despite these seemingly large figures, the cumulative operating results for the life of the program are varied. As recently as 1991, the NFIP ran a surplus of \$110 million dollars. On the other hand, the program has been in the hole for as much as \$1.47 billion in both 1997 and 1998. This number is representative of many different occurrences such as Hurricane Fran, but one factor is certainly repetitive loss properties.

When Congress created the NFIP, a policy decision was made to subsidize premiums for homeowners living in older homes that pre-dated flood maps. As such, the program was granted the authority to borrow from the U.S. Treasury to make up the funds lost through subsidizing premiums and to guard against unforeseen disasters. Through June 2001, the NFIP has borrowed \$3,409,535,534 from the Treasury, and, as of that same date, the NFIP has a balance with the Treasury of \$0.00. This means the NFIP has paid back, with interest, every last cent it has borrowed. According to the Congressional Liaison's office of the NFIP, the program has never defaulted or even made a late payment on a loan. It is worth noting that since 1994, all funds borrowed have been repaid from premium income, not congressional appropriations.

The NFIP provides a valuable service, one which parallels the social policy we have

regarding natural disasters, and, since 1994, has managed to be self-sufficient. But, we can make it better.

Principles for Repetitive Loss Reform

As I previously stated, it has been my experience that the vast majority of homeowners do not enjoy being flooded. And, quite frankly, I don't believe Congress should further punish people for the misfortune of having their homes damaged and lives disrupted by flooding. Congress must abandon the notion that any repetitive loss homeowner who refuses a mitigation offer by FEMA is a crook. Logic and experience tell us otherwise.

Congress, and this committee, should seek to implement a repetitive loss mitigation strategy that takes into account reasonable circumstances which might lead a homeowner to refuse an offer of mitigation. In fact, in the Financial Services Committee's budget views for fiscal year 2002, this approach is urged. The budget views advocate a mitigation program that takes the following into consideration when a reasonable mitigation offer is refused:

- Will the offer of mitigation (if buyout is the option exercised) significantly limit or inhibit future homeownership opportunities for the individual or family?
- Will mitigation destroy or otherwise disrupt the continuity of minority or historically significant neighborhoods?
- Is the property flooding as a result of third-party development (either up-stream or down-stream) that has altered drainage patterns?
- When purchased, did the homeowner make that purchase in good faith by relying on FEMA certified flood maps or Flood Insurance Rate Maps?

Congress would certainly not want to "help" someone out of homeownership. In my district, I can think of areas that are flood prone and are populated by the elderly who have lived in their homes for decades. The value of these homes, relatively speaking, is not that great. If

FEMA were to make a buyout offer for the fair market value of their home, I do not believe they would be able to purchase another residence.

Congress should be careful not to enact a policy that would require entire historic towns (as was the case in Princeville, North Carolina) or culturally significant neighborhoods to be bought out or significantly altered. In some cases, certain populations settled only where they were allowed, and often this was not on the highest ground. I don't believe we should punish communities for the inequities of the past.

Holding a homeowner responsible for someone else's actions is not right. As our nation has grown, our cities have spread out. This urban sprawl has meant an explosion in new construction. Poor zoning and city planning has meant that drainage and watershed patterns have been significantly altered. Should an individual whose home never flooded for the past twenty years be held accountable for the new subdivision being built a mile or two up the road? Furthermore, I don't believe homeowners should be penalized if they purchased their property by relying on incorrect FEMA maps. Why would we want to penalize people who did their homework and tried to do the wise thing?

Being displaced from your home is a traumatic experience, regardless of the reason. One of my employees has flooded twice in the past year. When Suzette and her family moved back into their new home after the first flood, they were flooded out two weeks later by Tropical Storm Allison. She has once again moved her family out of their home and back into a small apartment while all the work that was just completed is being redone. And, I can assure you, Suzette did all of the necessary research before she and her husband purchased that home. After owning her home for less than 1½ years, Suzette could be thrown out of the program or face extraordinarily high premiums for flood insurance because the developer did not install a proper storm drainage system.

When Suzette receives a call from FEMA telling her they want to either mitigate or purchase her house, she will face the reality of quite possibly having to move once again. How can she tell her family that they have to move while their house is raised, or while other major work is occurring? Or, how can she tell her family that they will be moving into a new home? In other words, she is going to need a very good reason to displace her family for a third time in such a short period of time.

Let me be very clear—I do not believe every family or individual who refuses mitigation will have a compelling reason for doing so. The repetitive loss problem is so severe that I believe the Director must have the authority to hold a homeowner accountable for the increased risk and cost to the NFIP when a reasonable mitigation offer is refused.

This raises questions regarding the nature and severity of the penalty for refusal, and for a homeowners' right to appeal an adverse determination. I do not believe that families should be priced out of the NFIP. Certainly an increase in premium and deductible is in order, but I do not believe it is in the best interests of the program to price these increases in such a manner that will drive people away from the program. Every dollar of premium ultimately offsets government disaster assistance costs. Furthermore, fairness requires that we provide homeowners with an opportunity for a third-party review of a determination. People need to know they are being treated even-handedly.

Congress must empower FEMA to move forcefully against bad actors and those who attempt to defraud the NFIP. If a homeowner is deliberately allowing an insured structure to flood for the sole purpose of collecting a claim, that individual must be expelled from the program or have his or her right to participate in the program suspended for a length of time.

Financing Repetitive Flood Loss Mitigation

With such a daunting task before the agency, it is appropriate to consider the costs. Indeed, FEMA studies show that initial costs of beginning a targeted mitigation program run around \$575 million. Complicating this situation is that the appropriators are hesitant to provide funds to pay for disasters before they happen. This means that substantial resources are not available. As a case in point, I recently received correspondence from East Baton Rouge Parish saying that while the City-Parish has identified 700 repetitive loss properties in their jurisdiction, there is only enough funding for them to consider mitigating 50 structures. This piecemeal approach prolongs the hemorrhaging of the NFIP while leaving families and communities in harm's way. Clearly, alternative sources of revenue must be located.

Currently, the NFIP is authorized to borrow from the Treasury to cover shortfalls between revenue and expenses. Depending on the severity of losses each year, the amount borrowed fluctuates. As I previously stated, the agency has always paid off its debts on time and with interest. I propose building on this relationship. Congress should consider authorizing FEMA to borrow from the Treasury the amounts necessary to begin mitigation of the most severe repetitive loss properties. FEMA has already developed a list of the 9,500 worst repetitive loss properties and has estimated annual projected losses if these structures are not mitigated. By having a loss estimate, FEMA, by extension, has also created savings projections. As properties are mitigated, FEMA can invest the identified savings into additional mitigation activities. After the program is underway, FEMA will have paid off its initial debt with the Treasury and will be able to use the realized savings to mitigate all identified repetitive loss properties.

Once significant progress has been made on the mitigation of repetitive loss properties, the Director should be given the option of using a portion of the savings to update old flood maps. Unreliable Flood Insurance Rate Maps have frustrated local officials, insurance agents,

homebuilders and homeowners. FEMA has estimated that nationally, flood maps can be updated for a cost of \$1 billion. The resource mismatch is yet again a problem for FEMA. Diverting these savings over a period of time may help the agency overcome this difficulty.

Madam Chair, it is obvious that the NFIP faces a crisis of extreme consequence in the repetitive loss problem. Repetitive losses continue to drain the NFIP and may one day have a significantly negative impact on taxpayers. However, this does not have to be the case. Americans rely on federal flood insurance and they are comfortable with the program. This program must be preserved and open at a reasonable price to the largest portion of our population. Congress can help families stay in the program and Congress can help families prevent additional flood losses.

I believe that this committee and this Congress are up to the task of reforming the NFIP to reduce the repetitive loss problem. I look forward to working diligently with all interested members and the Bush Administration to accomplish our common goals.