THE NATIONAL FLOOD INSURANCE PROGRAM AND REPETITIVE LOSS PROPERTIES

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

JULY 19, 2001

Printed for the use of the Committee on Financial Services

Serial No. 107–36

U.S. GOVERNMENT PRINTING OFFICE

74–194 PS WASHINGTON : 2001

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

HOUSE COMMITTEE ON FINANCIAL SERVICES

MICHAEL G. OXLEY, Ohio, *Chairman*

JAMES A. LEACH, Iowa
MARGE ROUKEMA, New Jersey, *Vice Chair*
DOUG BEREUTER, Nebraska
RICHARD H. BAKER, Louisiana
SPENCER BACHUS, Alabama
MICHAEL N. CASTLE, Delaware
PETER T. KING, New York
EDWARD R. ROYCE, California
FRANK D. LUCAS, Oklahoma
ROBERT W. NEY, Ohio
BOB BARR, Georgia
SUE W. KELLY, New York
RON PAUL, Texas
PAUL E. GILLMOR, Ohio
CHRISTOPHER COX, California
DAVE WELDON, Florida
JIM RYUN, Kansas
BOB RILEY, Alabama
STEVEN C. LATOURETTE, Ohio
DONALD A. MANZULLO, Illinois
WALTER B. JONES, North Carolina
DOUG OSE, California
JUDY BIGGERT, Illinois
MARK GREEN, Wisconsin
PATRICK J. TOOMEY, Pennsylvania
CHRISTOPHER SHAYS, Connecticut
JOHN B. SHADEGG, Arizona
VITO FOSSELLA, New York
GARY G. MILLER, California
ERIC CANTOR, Virginia
FELIX J. GRUCCI, JR., New York
MELISSA A. HART, Pennsylvania
SHELLEY MOORE CAPITO, West Virginia
MIKE FERGUSON, New Jersey
MIKE ROGERS, Michigan
PATRICK J. TIBERI, Ohio

JOHN J. LAFALCE, New York
BARNEY FRANK, Massachusetts
PAUL E. KANJORSKI, Pennsylvania
MAXINE WATERS, California
CAROLYN B. MALONEY, New York
LUIS V. GUTIERREZ, Illinois
NYDIA M. VELÁZQUEZ, New York
MELVIN L. WATT, North Carolina
GARY L. ACKERMAN, New York
KEN BENTSEN, Texas
JAMES H. MALONEY, Connecticut
DARLENE HOOLEY, Oregon
JULIA CARSON, Indiana
BRAD SHERMAN, California
MAX SANDLIN, Texas
GREGORY W. MEEKS, New York
BARBARA LEE, California
FRANK MASCARA, Pennsylvania
JAY INSLEE, Washington
JANICE D. SCHAKOWSKY, Illinois
DENNIS MOORE, Kansas
CHARLES A. GONZALEZ, Texas
STEPHANIE TUBBS JONES, Ohio
MICHAEL E. CAPUANO, Massachusetts
HAROLD E. FORD JR., Tennessee
RUBÉN HINOJOSA, Texas
KEN LUCAS, Kentucky
RONNIE SHOWS, Mississippi
JOSEPH CROWLEY, New York
WILLIAM LACY CLAY, Missouri
STEVE ISRAEL, New York
MIKE ROSS, Arizona

BERNARD SANDERS, Vermont

Terry Haines, Chief Counsel and Staff Director

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

MARGE ROUKEMA, New Jersey, *Chair*

MARK GREEN, Wisconsin, *Vice Chairman*
DOUG BEREUTER, Nebraska
SPENCER BACHUS, Alabama
PETER T. KING, New York
ROBERT W. NEY, Ohio
BOB BARR, Georgia
SUE W. KELLY, New York
BOB RILEY, Alabama
GARY G. MILLER, California
ERIC CANTOR, Virginia
FELIX J. GRUCCI, JR, New York
MIKE ROGERS, Michigan
PATRICK J. TIBERI, Ohio

BARNEY FRANK, Massachusetts
NYDIA M. VELÁZQUEZ, New York
JULIA CARSON, Indiana
BARBARA LEE, California
JANICE D. SCHAKOWSKY, Illinois
STEPHANIE TUBBS JONES, Ohio
MICHAEL E. CAPUANO, Massachusetts
MAXINE WATERS, California
BERNARD SANDERS, Vermont
MELVIN L. WATT, North Carolina
WILLIAM LACY CLAY, Missouri
STEVE ISRAEL, New York

CONTENTS

Additional Material Submitted for the Record

THE NATIONAL FLOOD INSURANCE PROGRAM AND REPETITIVE LOSS PROPERTIES

THURSDAY, JULY 19, 2001

U.S. House of Representatives,
Subcommittee on Housing and Community Opportunity,
Committee on Financial Services,
Washington, DC.

The subcommittee met, pursuant to call, at 10:23 a.m., in room 2128, Rayburn House Office Building, Hon. Marge Roukema, [chairwoman of the subcommittee], presiding.

Present: Chairwoman Roukema; Representatives Bereuter, Barr, Kelly, Oxley, Miller, Grucci, Tiberi, Carson and Israel.

Chairwoman Roukema. This hearing on the Subcommittee on Housing and Community Opportunity will come to order. Officially we are now in session. Without objection, all Members' opening statements will be part of the record, and if Members do have opening statements, they may have 3 minutes in which to speak. And also, and I believe that our panelists know this, but I would like to repeat it, that without objection, all the written statements, full written statements of panelists on each of the panels will be made part of the record, but we should try to limit our statements to a 5-minute summary of the testimony, and we will have to try to be aware of that 5-minute restriction because we want to get through this hearing today before we get interrupted over and over again with the voting session on the floor.

So with that as the opening, we hope that Mr. Frank or other Members of the minority will be here shortly. But in any case, we will continue now with our hearing or begin our hearing. And I'd like to say that this certainly is an important hearing, and I appreciate our witnesses providing all the information for us, because this is a very complex issue and one that has been around for quite some time, National Flood Insurance, and specifically the issues regarding repetitive loss properties.

The floods have been and continue to be one of the most destructive natural hazards in terms of economic loss, but also emotion loss and in many cases the health and safety of people throughout the Nation. The National Flood Insurance Program is a valuable tool in addressing the losses that are incurred, because it assures that businesses and families have access to afford flood insurance that would otherwise be unavailable on the open market.

The National Flood Insurance Program has been of immeasurable help to families, not only in New Jersey, but certainly in every State across the country. And it's an integral part of the question of the American Dream and owning one's own home and how we balance these competing needs.

The National Flood Insurance Program was created in 1968. Prior to that time, insurance companies generally did not offer coverage for flood disasters, because obviously the high risks involved. National Flood Insurance is now available in more than 19,000, almost 20,000 communities across the United States. In order to participate in the program, communities must agree to abide by certain hazard mitigation provisions. And these provisions include adopting building codes that require new floodplain structures to be protected against flooding or elevated above the 100-year floodplain.

New Jersey, of course, is no stranger to the floods, and we have over 400 communities that have partnered with FEMA to provide policies that would give $239 million in property loss coverage. That in a small State like New Jersey, and you can expand it into what the costs are across the country.

Clearly, that is why we need to take steps to reform the National Flood Insurance Program, and today we have not only our panelists of Members here, but others who are knowledgeable on the program and certainly the GAO today will testify that the program and the questions of actuarial soundness, and we know that is a growing issue.

Clearly, repetitive loss properties are a main drain on the current system. FEMA defines repetitive losses as two or more losses greater than $1,000, each within a 10-year period. About 38 percent of all program claims are repetitive losses, and currently about 45,000 properties nationwide have been flooded on more than one occasion and have received payments of $1,000 or more.

I won't go into any more of the numbers and the statistics on this, except that it is known that this is a huge and costly and growing problem. The repetitive loss structure is not only a serious drain on the program, but the high cost of multiple loss properties leads to increased premiums for all policyholders. And I believe that's what our Members, our colleagues here on the first panel have recognized, and that is one of the motivating forces for them taking action to deal with this long overdue reform that is necessary. Whether or not we're going to be able to come to that reform in the very near future, we shall see. But certainly I appreciate Congressmen Bereuter, Bentsen and Blumenauer for being here today to help us direct our focus on this issue. And I do believe that Congressman Baker will be joining us at this time as well, and he is a Member of this subcommittee as well.

So I welcome you and recognize that our time is limited, so without further questions or further comments, having outlined the dimensions of the problem, I will introduce Congressman Bereuter, who was the one person who first came to me, enlightened me on the subject and has introduced his own legislation. And so we recognize him as the first Member of our first panel. Mr. Bereuter from Nebraska.

STATEMENT OF HON. DOUG BEREUTER, A MEMBER OF CONGRESS FROM THE STATE OF NEBRASKA

Mr. BEREUTER. Good morning. Thank you, Madam Chairwoman, Members of the subcommittee. Thank you for holding this hearing. Mr. Blumenauer of Oregon and I reintroduced legislation we introduced in the previous Congress, and we had the assistance and support of former FEMA Director James Lee Witt. Before this in previous Congresses, I worked with Congressman Joseph Kennedy, a former Member of this subcommittee, on legislation. And I want to thank Congressmen Bentsen and Baker for their interest and concern for the functioning of the NFIP as well.

If enacted, the Two Floods and You're Out of the Taxpayers' Pocket Act will help turn the tide against the huge costs associated with repetitive loss properties. Right now, people who own, sell or construct these repetitive loss structures want us to turn our back on the loss to the taxpayers and the huge cost shifting that goes on among premium payers, but we ought to address it. We should have addressed it many years ago, either that or the Federal Government should get out of the business altogether.

The policyholders of many of these repetitive loss properties are currently not being charged anything close to actuarially sound rates under the NFIP. The legislation addresses repetitive loss properties in a simple, straightforward manner. The owner of a repetitive loss property will be charged the actuarial risk-based rates for the National Flood Insurance policy if two conditions are met. First, two or more NFIP claims must have been paid on an individual property, which is thereby defined as a repetitive loss property. Second, the policyholder of the property has refused a buyout, elevation or other flood mitigation measure funded by FEMA.

Today I'd like to use this opportunity to explain in greater detail, but in the very limited amount of time, the five reasons for my support of H.R. 1428.

First I support the legislation due to the widespread abuse among some policyholders who own repetitive loss properties who are not paying the actuarial rate for their flood insurance. FEMA has identified over 45,500 insured properties nationwide under NFIP which would be categorized as repetitive loss properties using FEMA's definition of two or more flood insurance losses of $1,000 or more within any 10-year period.

Of these 45,000-plus properties, approximately 10,000 have experienced either four or more flood losses or two to three flood losses that cumulatively exceed the value of the property. This subset of properties is costing the NFIP over $80 million annually, and the average payout is $200 million overall for repetitive loss structures.

Under NFIP, a regional cross subsidy is flowing from the policyholders in non-repetitive loss areas of the country to those policyholders in repetitive loss areas of the country. In FEMA's defense, it does not have the Congressionally mandated tools to address the cost of repetitive loss. The Two Floods and You're Out of the Taxpayers' Pocket Act will give FEMA the authoritative tools to reduce repetitive loss and to stop this Federal handout and cost shifting to other NFIP policyholders.

Second, this legislation will save Federal taxpayers by reducing the NFIP unpaid debt to the Treasury. They pay it periodically, as they recently have. Since 1994, FEMA has been forced to borrow over $2 billion from the U.S. Treasury to cover NFIP claims and operating expenses.

I certainly know of no private insurance company that can long stay in business if it disregards good actuarial practices. American taxpayers are paying the cost for those individuals who choose to live in higher flood risk areas and who fail to make the prudent mitigation actions.

This bill will help to ensure the future solvency of the NFIP and to reduce the need for NFIP to borrow from the Treasury. Moreover, the bill would also save substantial taxpayer money the cost of Federal disaster relief assistance as many properties will be bought out and removed from Federal disaster aid-prone areas.

In addition, the legislation explicitly provides that many types of Federal disaster relief assistance will be not given to the owners of repetitive loss properties if they refuse to accept mitigation assistance.

Third, the legislation is based on the fact that NFIP gives subsidized flood insurance to disaster-prone areas. The Federal Government is encouraging development in these areas. The question needs to be asked whether rebuilding is merited in repetitive loss high-risk areas. I certainly believe in many cases the answer is no.

Fourth, because of a predicted future change in weather patterns, this legislation should be enacted. Dr. William Gray, a highly respected Professor of Atmospheric Science at Colorado State University, for example, one of many respected climatologists, predicts that over the next decades, the East and Gulf Coast States will be subject to more frequent and forceful tropical storms, including hurricanes.

Due to the number of repetitive loss properties on the coast, additional hurricanes will result in huge numbers and amounts of additional claims against the NFIP. It is imperative that the NFIP is changed before the eye of yet another hurricane is upon us.

Lastly, the demographic reality is that millions of Americans are living closer to the ocean, closer than ever before in numbers and in percentage. According to the Census Bureau, within the next 10 years, 75 percent of the U.S. population will live within 100 miles of the U.S. coastline. Due to this demographic factor, the time is ripe to change the structure of the NFIP and the way it works.

In summary, this legislation is needed. It will stop treading through waters of repetitive loss after repetitive loss. This legislation is the right thing to do at this time. I look forward to the hearing and the hearing of the others of my colleagues and others who will testify here today, and I pledge to try to work with you, Madam Chairwoman, and the subcommittee of which I am Member to craft legislation to address these problems.

Thank you.

[The prepared statement of Hon. Doug Bereuter can be found on page 69 in the appendix.]

Chairwoman ROUKEMA. I thank you, Mr. Bereuter.

I do want to acknowledge the fact that the Chairman of the full Committee, Mr. Oxley, has arrived. Do you just have an opening minute or so statement, Mr. Oxley?

Mr. OXLEY. That's correct, Madam Chairwoman.

Chairwoman ROUKEMA. Pardon me?

Mr. OXLEY. That is correct.

Chairwoman ROUKEMA. Thank you. Go ahead.

Mr. OXLEY.. It's good to be here, and thank you for your leadership on this issue. And let me commend my colleagues for their interest in this very important issue. And I'm sorry that the Emergency Management Director from Ohio called, but ironically, he couldn't be here, because he's with the governor looking at the flood damage in Hamilton County along the Ohio River. So this is indeed timely in that respect.

For sheer inventiveness, I have to congratulate the authors of H.R. 1428. "The Two Flood Insurance and You're Out of the Taxpayers' Pocket Act of 2001." I've been around here 20 years next week, and that will be one of the most inventive titles for a piece legislation. So, Mr. Bereuter and Mr. Blumenauer, you are to be congratulated on that as well.

This subcommittee will take a serious look at both pieces of legislation and the overall effect this has not only on the taxpayers, as Congressman Bereuter pointed out, but also the effect it has on people and their lives. This is something that I've had an interest in for a number of years. We've had some flooding in my district for a number of years, and the farther south you get, the worse it gets in Ohio and certainly Northern Kentucky.

So my hat's off to the Chairwoman for her leadership and also to my colleagues for what I think will be an excellent hearing and an opportunity to explore some of these issues that we've grappled with in the past. And I think if you look at the graph that Congressman Bereuter passed out, it gives a pretty stark appraisal of where we have been the last few years resulting in appropriations and the need for FEMA to borrow substantial amounts of money.

So with that, Madam Chairwoman, I would ask unanimous consent to make my full statement part of the record. Thank you.

Chairwoman ROUKEMA. Thank you. Yes, unanimous consent is there for all Members of the subcommittee.

And with that, we will now recognize Congressman Richard Baker from Louisiana, also an active Member of this subcommittee.

STATEMENT OF THE HON. RICHARD H. BAKER, A MEMBER OF CONGRESS FROM THE STATE OF LOUISIANA

Mr. BAKER. Thank you, Madam Chairwoman and Members of the subcommittee. Madam Chairwoman, I have some additional addendums I would like to include with my written testimony for inclusion in the record.

Chairwoman ROUKEMA. Without exception, so moved.

Mr. BAKER. Thank you, Madam Chairwoman. Often, and far too often, the refrain is heard in Louisiana, we're a State that's either underwater or under indictment.

[Laughter.]

Mr. BAKER. And I appear here today, Madam Chairwoman, as an expert on any subject the subcommittee wishes to pursue.

First I'd like to tell you that I have never met anyone in my State who likes to flood. Now I'm sure there are some who profit from repetitive loss activities, and that's regrettable. But most folks I visit with during the floodwater's encroachment are very pained and angered by their circumstance. They don't care if it's local water, State water or Federal water, all they know is they've got water in the bedroom, and they're not happy.

Second, floods are dynamic events. They're like animals. They change from day to day. Depending on wind, tide and moon, we have varying circumstances resulting from the same amount of rainfall, also where the water comes down to a large extent determines where the damage occurs. A property which is not flooded today has no assurance it won't flood in the future as new developments continue, as local governments fail to maintain appropriate drainage standards, circumstances are often very unpredictable.

Third, significant efforts are being made in some jurisdictions to mitigate losses and to make changes. For example, the Congress and the State together have appropriated funds necessary to construct a $150 million drainage canal in my district, the most important aspect of which is local folks who are very tax averse voted a property tax on themselves to provide the local share of construction cost. We're making effort.

So, what's the problem? When you begin to look at the nature of the repetitive loss properties, FEMA knows who they are. To a large extent, I know who they are in Louisiana. We know where they are. We know what the claims amount to, and we could buy them out. I suggest we could take that line of credit we now have for FEMA, extend it to identifiable repetitive loss properties, buy them off and get them off the list.

As you will note, over the line of the program, it is a line of credit. No other natural disaster is treated similarly. The premiums, in fact, pay off the debt. Today if you look at the status of the fund, there is a surplus of money in the fund. Now we have a contingent liability we've all identified known as Tropical Storm Allison, which will easily eat through that collective body of money. But over the near term, the premium flow will greatly diminish the losses incurred. So it's a line of credit extended by some States to other States, which is then paid off by those who benefit from the program.

I reference, in fact, year-end results, the chart which has been included in the record, which shows since 1994 when a structural change was made where no more Congressional appropriations are utilized to pay off flood loss mitigation and where premium dollars pay off the borrowed funds, and today we have a small fund balance.

Second, there are a number of ways to solve the problem of repetitive loss properties and those who engage in abusive practices. One, as my friend from Nebraska has suggested, is to cut people off who flood repetitively. The problem with that can be best exemplified by a member of my own staff, a young lady recently married with children decided to buy their first home. I can tell you, they went through extraordinary due diligence. They did everything one could reasonably expect to be done in order to determine if the property they were acquiring was subject to flooding.

Two months after occupying the house, it was the only house, but the house that flooded in a very recent storm. They moved out. Damages were paid. The house was renovated. Two weeks after moving back in, Tropical Storm Allison came through and they were again the only house to flood within the subdivision. Were they in bad faith? They did not exercise good judgment? They certainly bought flood insurance. They paid the premium. Should we now tell this young family whose value of the house has fallen below the mortgage they owe that we are going to be out of the program and have to sustain repetitive loss, can't sell the property for now what they owe on it? I don't think that's fair, and I don't think that's what most Members of this subcommittee would like to see happen to their constituents.

There is another remedy. And let's look at the premium flow. Where does the money come from to now pay off the losses we incur? It comes from people paying the premium. Let's talk to FEMA. What's the percentage in your State of people subject to high-risk flooding hazard that actually paid premium to the program? My State is one of the best in the country.

For example, not to pick on my colleague from Texas, but just by way of example—we share the same view on this matter—when you look at the relative size and relative value of property in Texas as contrasted with Louisiana and then look at the premium dollars currently in effect, in Louisiana we have $140,398,000 worth of premium in effect. Texas, by contrast, has $127,620,000. We have $20 million more premium being paid by our State than those in the State of Texas, which has a similar concern about the proposal.

What we should do is condition I think participation levels by a State with identifiable flood problems to a certain level so that we have more premium flow. My concern, however, is when we get to the 50 percent level that Louisiana now enjoys, for example, we will have significant funds in the pot, which then may be subject to interest by others for other purposes.

This is a problem which can be fixed. I simply call on the subcommittee to exercise great caution, not to move quickly. The value of this program to the people who suffer the ravages of flooding is immeasurable. And the losses to unreasonable or arbitrary constraints and denying people access to this help I think would be regrettable.

Madam Chairwoman, I appreciate your courtesy and this opportunity to participate.

[The prepared statement of Hon. Richard H. Baker can be found on page 50 in the appendix.]

Chairwoman ROUKEMA. I thank you, Mr. Baker.

Congressman Bentsen from Texas. Already been referenced. Would you like to explain your legislation?

STATEMENT OF HON. KEN BENTSEN, A MEMBER OF CONGRESS FROM THE STATE OF TEXAS

Mr. BENTSEN. Thank you, Madam Chairwoman. And I appreciate the subcommittee holding this hearing. As with Mr. Bereuter and Mr. Blumenauer, I also reintroduced the bill that I had introduced in the last Congress to reform the National Flood Insurance Program as it relates to repetitive loss properties. And I am hopeful that the subcommittee will be able to come up with a bill this year.

We in the last Congress tried to work to resolve the differences between our bill. We got close. We didn't quite get there. And I hope that we can and take into account the information that Mr. Baker brought as well.

Since the last time I testified on this bill, my district and the districts around my district have suffered a storm of severe proportions that is estimated to be somewhere about a 500-year event, a storm that has flooded, I believe at last count, around 70,000 homes. There have been about 90,000 claims made to FEMA. FEMA estimates that their obligation at this point is about $2.4 billion, and the property assessors assume that the total damage is close to $5 billion.

Included in that are a large number of people who are in the Flood Insurance Program, and it's estimated that overall, the number of claims that will be made to the NFIP as a result of Tropical Storm Allison will be about 25,000 when it's all said and done. That being the case, it puts me a little bit awkward situation to talk about reforming the NFIP program when I have so many constituents who have just been affected by this terrible tropical storm. But in fact, I think that that is something that we ought to do, and I think those of us who represent constituents who participate in the program should be at the forefront of trying to protect this program.

Because I do not believe that the NFIP program for the vast majority of American homeowners who use it is a boondoggle. The vast majority, in fact, all of my constituents who use the NFIP program, and it's 30,000 or more, don't live in fancy beach houses along the Gulf Coast, they live in suburban neighborhoods along watershed, some that are undergoing flood control projects, some that are projects that have been authorized for 40 years, but Congress hasn't funded.

Some of the worst abusers of the repetitive loss program are, in fact, in my district, and I think we ought to work to buy those out. But I also have a number of constituents who went through flooding in 1994 and went through flooding in 1978 and 1976 and were told that they might be bought out. But as it turned out, there wasn't enough money for the buyout. So all we could do was repair their homes and let them get flooded again. I talked to a woman the Sunday after the flood who was flooded seven times. Actually, she flooded eight times, because she flooded twice during this last storm. But she holds on. She's a cancer survivor, and she raised eight kids in that house, and she said she's prepared to go back if we're not going to be there to buy her out.

I have a constituent of mine, Mayor Wayne Riddle of Deer Park, who is an insurance man who was about to give up his flood insurance, but chose to keep it because he wanted to practice what he preached, and he was glad he had it, because he hadn't flooded in 20 years.

Madam Chairwoman, the difference between the bills are this. Both of us believe that we should put money in for mitigation and put money in for buyouts. And Congress has been deficient in the past of giving FEMA the funds they need to do it. Both of us believe that the most repetitive properties ought to be bought out. But where we have a disagreement is how you define a repetitive loss property. In my bill, I think that we should tie that definition to the value of the house.

I don't think that we should define it to the number of times that you are flooded, because as I read Mr. Bereuter and Mr. Blumenauer's bill, you could be flooded twice in a period 20 years or 30 years and file two claims totaling as little as a couple of thousand dollars and FEMA could decide that they want to buy you out. I think that's too broad of a targeting.

I think that we should focus on the worst abusers of the system, not the American people who have paid in thousands of dollars of premium to this program only to be caught up in trying to clear the watershed.

The other thing I would tell you is this. The statistics show that 96 percent of the repetitive loss properties are what are called pre-FIRM properties. These are before FEMA went in and began mapping the floodplain. So a lot of people are in the floodplain that didn't realize they were getting into it in the first place that are being caught up in the repetitive loss property.

And we also know that the floodplain moves. FEMA went through a remapping of some of the major watersheds in the Greater Houston area last year and the previous couple of years. I had 9,000 constituents who prior to that time were not in the floodplain who are now in the floodplain and are now subject in many cases to having to get flood insurance.

So I think we have to be careful who we think the culprits are here. And I don't think it's the majority of the people who are in the program, and I think we also have to be careful about what we do to this program that will affect the property value of these homeowners going forward. It is a program that we need to fix. I think we can get there and fix it, but we need to keep into consideration the homeowner's property rights, who the culprits are in this. And I would hope that we would keep in mind that the NFIP program is a good program, because the private market does not write this insurance. And when you flood, you have nowhere else to turn.

I appreciate the gentlelady for having these hearings.

[The prepared statement of Hon. Ken Bentsen can be found on page 65 in the appendix.]

Chairwoman ROUKEMA. All right. Thank you, Congressman Bentsen.

Now we welcome Congressman Blumenauer to the panel.

STATEMENT OF HON. EARL BLUMENAUER, A MEMBER OF CONGRESS FROM THE STATE OF OREGON

Mr. BLUMENAUER. Thank you, Madam Chairwoman. I was heartened by Chairman Oxley's comments, and I deeply appreciate your leadership in allowing this hearing to move forward.

As was referenced, I have been working for the last couple of years with Congressman Bereuter on this legislation. My goal in Congress is for the Federal Government to be a better partner, promoting the livability of our communities. And it's hard to imagine a simple, direct step that can have more impact on more people, and on improving the environment and quality of life, than moving forward with meaningful reform of the Flood Insurance Program.

I won't repeat the details. My colleague, Mr. Bereuter laid them out more clearly than I. I have a statement that I have submitted for your record.

I would make a couple of points if I may. One is that this legislation is not designed to force anybody to do anything. FEMA has had excellent leadership with Mr. Witt previously and Mr. Allbaugh, who I think has been an excellent appointment by this Administration. FEMA is doing a good job, but they need more tools to help move people out of harm's way.

I think we do people no benefit by enabling repetitive flood loss, having people in harm's way. And I think the thrust of the legislation is not a situation where we're going to move people who had de minimis losses. You will hear from people at FEMA that this is not the intent. But the broader definition is important to be able to move forward when you have a number of properties and you need to be able to have funds available.

FEMA wants to concentrate on the areas with the greatest impact. We have used as a poster child one property in Houston that in less than 20 years has had over $800,000 worth of repetitive flood loss for a home that is valued at less than $115,000. I haven't seen the results since the last flood, but it's very likely that that total has been boosted.

But it's not just a case of the loss of money, although the Bush Administration has estimated that they could gain $10 million in budget savings and are supporting something similar in this area.

There is another important advantage, and that is improving the environment. If we encourage people to live in areas that are repeatedly flooded, it is harder to move forward with mitigation that FEMA has done with spectacular success moving people out of harm's way and site hardening their locations.

This legislation would simply require that people pay full freight or they accept funding to move or to harden the site. And if we do that, it's going to make flooding over the long haul less damaging, because we will have people moved out of harm's way. We'll be able to allow that land to be used as nature had intended, to be able to absorb flood damage. So rather than contributing to stormwater runoff in the future, it will actually make future flood losses less, reducing the demands on the program.

And last, but not least, I want to talk about the human impact, because I agree with, although I haven't had a devastating situation in my State as Congressman Bentsen has experienced, that we do people no favors to subsidize their continuing to be in harm's way. In the last session of Congress I think all our hearts were touched by the people in North Carolina and the devastation there.

Americans are instinctively I think heroic. They look out for their neighbors. And it isn't just a case of somebody deciding to live in a home where they've raised their kids. We saw in North Carolina where people died trying to save their neighbors, or in Houston just last month, there was a man electrocuted by his television, and his mother moved forward to try and help him and lost her life. If we have a Federal program that is not an efficient use of tax dollars, that's subsidizing people living in harm's way, that is encouraging more flooding over time and is encouraging people to put not only their own life at risk, but that of others, I think it's time for us to take a hard look, step back, approve reasonable reforms that have been supported by this Administration, by prior Administrations, and most importantly I think, be able to give the tools to the dedicated men and women who are trying to solve a problem.

I deeply appreciate your courtesy in allowing this hearing. And I think that with the help of this subcommittee, we can make whatever fine-tuning is necessary as far as definitions are concerned. But we can make sure that we make this program work better over time, improve the environment, save money, and save lives.

Thank you very much.

[The prepared statement of Hon. Earl Blumenauer can be found on page 73 in the appendix.]

Chairwoman ROUKEMA. I thank you, Congressman Blumenauer. I will make the point and I suppose we have some questions for our panelists before we get on to our next panel. But I would simply say that at this point, as you probably know, I am a strong supporter and co-sponsor of Mr. Bereuter's bill. I've heard and I associate myself with his comments regarding the Federal handout with respect to cross-subsidies.

But I have heard your other comments. I don't know that I've heard anything that can help us reach an accommodation to balance out these cross purposes here or the individual needs of States like Louisiana and Texas. But as opposed to constituents who are cross-subsidizing and paying much higher premiums. But we'll go into those questions with our later panelists and certainly work with all four of you to see if we can come to an accommodation on this or some sort of a compromise. And with that, I'll call on Mrs. Kelly if she has questions. Yes?

Mrs. KELLY. Thank you, Madam Chairwoman. I've looked at both your bills. My area has experienced tremendous storm damage a couple of times, and the latest was Hurricane Floyd where we had severe losses.

I am interested, Mr. Bentsen, in your definition. I have some concern about where your definition defines three or more losses with cumulative damages equal to 125 percent of the market value of the structure. I'd like a little more explanation of that. Because after you've been flooded out a couple of times, there's not a whole lot of market value for your home.

What I'm really kind of finding out is this a kind of a sleight of hand here so the Government's not going to pay these people? Or is that the original mortgage on the house? How are you going to define what the market value of the structure is?

Mr. BENTSEN. Mrs. Kelly, that's a good question. The way that that's determined, and we crafted this in working with FEMA and working with other State emergency people, buyouts occur already under the program. It's a voluntary system. The way they determine market value is they look at pre-event market value of the property. That's how they determine market value. In Houston right now they're looking to buy out 2,000 homes if they have the money. But that's how you determine it.

It's an established mechanism with which you do it.

Mrs. KELLY. Excuse me, but I want to follow up on that just a minute. Pre-which event? The first event, the second event, or the third event?

Mr. BENTSEN. They would look at the claims that were filed and paid and compare that with the market value of the house after the third event.

Mrs. KELLY. After the first event?

Mr. BENTSEN. After the third event.

Mrs. KELLY. After the third event?

Mr. BENTSEN. Yes.

Mrs. KELLY. So they would look at the claims and compare on a lowered market value, if I understand you correctly?

Mr. BENTSEN. The market value depends on many factors, as you know, but market values fluctuate in every part of the Nation. So they would just look at—I mean, market value, basically you go and look at what the appraisal district or whoever the entity is. In our case it's an appraisal district, determines what your property value is for property tax purposes.

Mrs. KELLY. I don't want to belabor this, but on the other hand, it seems to me you pointed out exactly what I was trying to drive at, is market values do fluctuate. You could have a home for $150,000. It gets flooded once. It's now worth a lot less than $150,000. The second time it gets flooded, everybody in the neighborhood, everybody in that community, everybody in that town knows that house got flooded.

Just take the example that Mr. Baker brought up. That one individual house. That couple now lives in a house that does not have any market value compared to what they owe on the original mortgage.

You're talking about a third flood, and they only get 125 percent of what their market value would be after that third flood. I submit to you that that's not going to be enough to help this poor couple.

Mr. BENTSEN. Well, Mrs. Kelly, two points I would make. I don't necessarily agree that market values continue to decline as a result of flooding events. It may be in some cases true and not in others. But second of all, the buyouts are already determined,that are conducted by FEMA through the States, are already determined on what the prior event market value is, regardless of whether we pass a bill or not. That's just the way they run the program.

And the third point I would make is this. For those who might feel that having three events within a 5-year period—and I'm very flexible in the definition. I just think it should be tied to the market value and not just any de minimis value. If it's a decline in value, it would make it more likely that you would breach the threshold under that scenario than the reverse, which would be property values continue to rise as they rise in the entire geographic area.

Mrs. KELLY. Mr. Baker, do you want to follow up on that for a minute?

Mr. BAKER. I just want to emphasize the point that there are two cures possible. One, as Mr. Bentsen and Mr. Bereuter and Blumenauer have pointed out, is on the payment end and the repetitive loss end. I hope the subcommittee will examine the front end. In private life, if you don't have car insurance and you're in a wreck, you not only lose the value of your car, you may go to jail in some States.

If you don't have flood insurance, you can have two events at least, maybe more depending on FEMA's judgment, you still get coverage. If you look at the percentage of people who have exposure to flood events who do not have insurance and force those individuals into the pool to pay the premium in advance, you will have more than adequate resources to pay off losses.

By virtue of explanation, New York has $55 million worth of premium in force as contrasted with Louisiana at $140 million. No other insurance program I know of says we will pay your damages. And by the way, you could start paying premium in 2 years. If you don't pay the premium, you don't get coverage. Now that's a very stringent requirement, but that's how life works in all other cases. No other natural disaster is treated the way the Flood Insurance Program is paid. A line of credit, which is repaid with premium. You have more premium, we don't have to worry about it, and we will have the cash that FEMA needs to buy out repetitive loss properties. Baton Rouge has 279. FEMA has money to buy 50.

Give us the money. We'll get rid of those properties. We protect the environment. We get those people out of harm's way at true market value, not subsequent to the loss. I thank you.

Mr. BEREUTER. Mrs. Kelly, may I respond?

Chairwoman ROUKEMA. I'm going to let Mr. Bereuter respond, but I do want you to know that we've gone well over the 5-minute period.

Mr. BEREUTER. Mrs. Kelly, Members of the subcommittee, the market loss criteria creates all kind of difficulties. You pointed out one. The legislation that we have, on the other hand, continues to permit the property owner, that is a repetitive loss property owner, to buy insurance, to pay the premiums. And they don't even have to go to actuarial rates after the second flood if the other condition isn't met. We don't force anybody out of their homes. We're simply saying, if FEMA comes along, offers a buyout, an elevation or other kind of mitigation and the property owner refuses, then, in fact, and only then do they begin to pay actuarial rates.

Mr. Bentsen has $100 million authorization for appropriation for this mitigation fund. They need more money, obviously. We have $120 million, by $70 million transferred into $50 million. But I think that the market value criteria actually is tougher in some cases on the property owner than ours which requires two conditions to be met.

Chairwoman ROUKEMA. Thank you all very much.

Next we have Congresswoman Carson.

Ms. CARSON. Thank you very much, Madam Chairwoman. You have probably answered this question three different ways, and I still don't get it. An analogy would be when the highway program first originated, they would give homeowners replacement value. And when they tried to get moved, they would find that inflation had, in fact, spiraled and had not met the actual cost of their places of abode. In Princeville, those homes were absolutely worthless to everybody but the people that owned them. They had historic value, significance and that. And when you put a price tag on replacement value, the people in Princeville are out to lunch. I mean, they don't get anything, because according to the appraisers, the property was worth nothing. But it was worth something. But in terms of the dollar application to the property, it was nothing.

How then do these measures undergird those kind of circumstances to ensure that the homeowners are not abandoned if you will, because their properties, according to appraisers, were worthless? You know what I'm saying? I don't care who answers, Madam Chairwoman.

Mr. BEREUTER. May I respond first briefly, and that is——

Chairwoman ROUKEMA. And we'll be very mindful of the fact that we have only 3 minutes left.

Mr. Bereuter.

Mr. BEREUTER. First of all, of course, the value of the property in a buyout by private sector, whoever, will never be enough to satisfy the owner, because they're looking at their original investment in most cases. But in most cases, when there is a buyout, FEMA is the most generous purchaser of that property, because it's been subject to flood. So their best option usually is a FEMA buyout.

Mr. BENTSEN. If I can just add very quickly, we're not talking about what the buyout price is. There is existing law that covers that and property values. What our difference is is when do you give FEMA the authority to raise the premiums? Both of us have a condition that if you don't accept a buyout or mitigation, then they can raise your premiums. We have different standards of when they can do that based upon what you define as a repetitive loss property. And in my case, I use based upon the claims paid out against the value of the property. They use the number of claims that are paid out.

Mr. BAKER. Mrs. Carson, if I might jump in real quickly, I would refer you to the Corps of Engineers Acquisition and Replacement Methodology when you're building a construction project. The Corps goes in and not only provides you with actual replacement value, they help you with packing costs, moving costs, if there's special considerations. There's a gentleman who is handicapped who has a home built entirely around his particular need. Those assets have no value to anybody else but him. But the Corps, because of the construction project, is going to rebuild a replica of his house.

Now there would be no way on an appraisal basis for him to be made whole. This is a separate methodology than what is in the National Flood Insurance Program. And I recommend to you the Corps' process is very fair and equitable as compared to what is being proposed.

Ms. CARSON. So you gentlemen are dealing strictly with the flood insurance and the premiums?

Chairwoman ROUKEMA. Yes. All right. Thank you. Mr. Grucci, do you have a question? No question? Mr. Quinn? I'm sorry. I didn't mean Mr. Quinn. I meant Mr. Miller.

Mr. MILLER. Thank you, Madam Chairwoman. One of you mentioned a 500-year flood. Where was that at?

Mr. BEREUTER. Houston.

Mr. MILLER. Houston? I know most communities if they have a 100-year preparation they're happy, and if they have 200 years, they take a lapel and fluff it, because they're kings. I can't imagine what in the world you could do to prevent a 500-year flood.

Mr. BAKER. Move.

Mr. MILLER. I mean, that is an incredible flood.

Now FEMA is talking about requesting $1 billion for new mapping basically is what they—and the Administration has got $17 million proposed or something. I don't know what city they're going to map for $17 million, but obviously, we're short.

One of you had mentioned that we should acquire the property based on property values rather than the amount of losses that a property has incurred. And one of you said that the National Flood Insurance Program—NFIP—is not a productive use of dollars, and I kind of agree in some form. I have a question that relates the following scenario: Someone owns a home, and because of climatic changes or whatever, topographic changes that might have occurred, ends up in a flood hazard area that they have to buy insurance through the NFIP. It was something they could not have known about going into it, but they buy flood insurance from NFIP that will cover it, because nobody in the private sector is going to write them a policy knowing that they're most likely going to lose money in writing them a policy.

My question is, how do we deal with the individuals who go into an area that is prone to risks like this and still buy the house, and we sell them a policy? Is there anything being done about that?

Mr. BAKER. Let me jump in because, again, it's repetitive.

Mr. MILLER. And this is the question.

Mr. BAKER. There are people who get benefits today who do not pay premium. That doesn't happen anywhere else. If you require the person to pay a premium to get a benefit, much of this goes away.

Second, the chart shows that although there are years where you run an excess draw on our line of credit, the line of credit is repaid entirely with premiums. Since 1994, that's the way this program works.

Mr. MILLER. You're saying if you don't pay the premiums, you don't get the benefit?

Mr. BAKER. That's the way life works everywhere else.

Mr. MILLER. I like that.

Mr. BAKER. Well, my answer is on the front end of the problem, not the back end. Rather than identify—now, we should get the repetitive abusers out.

Mr. MILLER. Yes.

Mr. BAKER. Once that's gone, which is a relatively small pool—that's roughly $200 million a year of repetitive annual losses—take them out of the program, require people to pay a premium, and let a good program work. Don't pay people a benefit if they're not participating voluntarily and paying a premium.

Mr. MILLER. I can't agree with you more. In my home area, we don't have flooding as a rule. I mean, occasionally, some minor thing happens that usually the Government has not provided flood control channels to accommodate it because of growth in areas. But currently, are we selling insurance premiums to people who are buying in an area that is prone to floods already?

Mr. BENTSEN. Yes.

Mr. BEREUTER. Yes.

Mr. MILLER. Does your bill address that?

Chairwoman ROUKEMA. Excuse me. Excuse me, Mr. Bereuter, I didn't hear what you said. You said yes, but in response to what?

Mr. BEREUTER. Yes. Several of us said yes.

Chairwoman ROUKEMA. In response to what? Yes, what?

Mr. BEREUTER. That, in fact, they are buying flood insurance. It's available to them.

Mr. MILLER. We have areas that we know are likely to flood. We know that we're likely to be put in the position to have to buy that home back if we have a fault, and we're selling policies in those high-risk areas today, putting ourself in the situation?

Mr. BENTSEN. If I might answer, Mr. Miller, I'm from Houston, Texas. It's the fourth largest city in the United States. It's the third largest county in the United States. In my district alone, there are about 30,000 people who are within the floodplain. And we sell insurance to them.

The law says that if you have a mortgage through a federally insured institution you have to have flood insurance, or if you've ever received any assistance or have an outstanding SBA loan through disaster assistance. But the point is, if we were to stop selling insurance to people in what are called pre-FIRM, the homes that were built before the floodplains were mapped—and the floodplains change because of upstream development and other things like that—you would have to go through, say, Southwest Houston and wipe out entire neighborhoods. I don't think the Federal Government is prepared to underwrite the cost of doing that.

Mr. MILLER. Are we still building new homes in these floodplain areas and then selling those insurance policies to those people in those areas?

Mr. BENTSEN. You're not allowed to—FEMA has agreements with—and they'll talk to this point. But they have agreements. In fact, we're going through this in Houston right now, where when cities and counties came into the Flood Insurance Program, they had to agree on plotting land and elevation requirements and the like, mitigation requirements, once they figured out where the floodplains were.

Mr. BAKER. It's extensive. You can drive through a city street, see one house that's 10 years old sitting on the ground, and you can drive right next to it, a new construction, it's five feet in the air. Those are all results of the FEMA requirements.

Mr. MILLER. So the new homes are in compliance?

Mr. BAKER. Built above what they believe to be is a floodplain.

Mr. MILLER. I'm familiar with flood hazard areas, but I know in your specific communities, it's a real problem because it encompasses a huge area, and I'm not even implying that we should not provide that insurance. Are we still allowing homes to be built that are going to be in these risk areas that we're—the Federal Government—are likely to suffer a loss, but we nonetheless provide the homeowners' NFIP policies?

Mr. BLUMENAUER. And if I may?

Chairwoman ROUKEMA. Yes, Mr. Blumenauer.

Mr. BLUMENAUER. You started by talking about an unimaginable 500-year event. You've seen in Northern California, since I've been in Congress, I think there have been three floods of the century in a decade.

The impact of unplanned growth, paving wetlands, and global climate change suggests that what we have seen now is the tip of the iceberg. And if we don't get this program right, we're going to find that FEMA and this Congress is contending with paying for it in disaster relief, more people in harm's way, and it's going to be more serious over time. I mean, look what happened in West Virginia two weeks ago. There's something going on here, and if we don't give them the tools to start getting ahead of the program, it's going to eat us alive. And flood insurance actually would be just a small part of the problem.

Mr. MILLER. Thank you, Madam Chairwoman.

Chairwoman ROUKEMA. All right. Thank you.

Mr. Israel.

Mr. ISRAEL. Thank you, Madam Chairwoman. I appreciate your leadership and the leadership of our colleagues on this issue.

FEMA reports that New York State has experienced about 7,600 floods since 1978; 2,886 of those are repetitive loss properties. Last Monday I stood in my district on something called the Ocean Parkway, which was aptly named, because the parkway almost fell into the ocean 10 years ago during severe flooding. It came within 15 feet. And a breach of the Barrier Islands in my district would cause dramatic surges of flooding on Long Island's mainland, threatening thousands of homes, businesses, even a hospital.

I believe that the homeowners and businesses there have a reasonable right to protect their investments, but that that protection should be fair and should not be abusive. And I agree with Chairman Baker when he says that we have to act in a responsible and fair manner to solve repetitive loss problems.

My question is to Congressman Blumenauer who is a champion of sustainable living and sustainable growth in this House. Separate and apart from H.R. 1428, are there sustainable growth strategies that attempt to strike a reasonable balance between those who are living in coastal areas and natural flooding conditions? What should we be doing separate and apart from this legislation in order to try and strike that balance?

Mr. BLUMENAUER. I would hope, Congressman Israel, that we can use the attention that's being focused on your work here and the problems that have resulted to look at other areas where we're investing in infrastructure, in water resources, working with the Corps of Engineers to help encourage simple, common sense steps like removing people who are on the water side of dikes and levies. And Congress has not enabled the Corps to remove them, for instance.

It would seem to me that we ought to have a broader view of this as being a larger picture. And the men and women who are going to be testifying after us have chapter and verse in terms of things that they're trying to do on the ground. We're seeing tremendous leadership on the State and local level where people are trying to move ahead of it, and I would just hope that Congress in our funding programs, in terms of disaster relief, in terms of infrastructure investment, and encouraging communities to plan on a regional basis, that we can be a full partner with them. Right now I feel Congress is a little bit missing in action.

Mr. ISRAEL. Are there sufficient funding programs at the Federal level to encourage partnerships with local governments and State governments for voluntary acquisition programs and property buyback programs?

Mr. BLUMENAUER. I think all of us agree we need to be putting more money into that. It's seriously underfunded.

Mr. BENTSEN. If I might, Mr. Israel, there are a couple of programs. One is Project Impact which the Administration chose not to fund, and FEMA is relooking at how they're doing that. It's a pre-disaster mitigation program both for flooding, earthquakes and the like. And we've used that in my district. I got a grant for an area in my district to buy out 20 homes in the area of Cresthaven that had been flooded repetitively, and the people wanted to be bought out.

And as I stated in my testimony, a lot of times what happens is there are people who want to be bought out, but we don't have enough money. Because the way the law is written is 15 percent of the total disaster assistance—there's money appropriated equal to 15 percent of the total disaster assistance for a federally declared disaster area that can be used by FEMA and their State partners for buyout in other mitigation.

In Harris County, as I said, they're looking to buy out 2,000 homes out of this program, but they're probably not going to be able to get there, because they may not have enough money to do it. So Congress really does need to step up to the plate where people do want to be bought out. But the only difference between us is we have to be careful in how much authority we give to FEMA and the Federal Government in determining where they want to buy out—the most repetitive, the worst abusers, or the houses that have flooded the most versus whether we want to give the Federal Government broad authority to clear the floodplain, and I think we have to think very carefully about how we want to do that.

Mr. ISRAEL. Thank you.

Chairwoman ROUKEMA. All right. Thank you. I thank the panel. Certainly as I said in my opening statement, there are a lot of complexities to this subject, and you've outlined them very well, and we shall see if we can come to an accommodation. This dialogue has even added more questions in my own mind.

But we'll work with you. And certainly we will—I'm sure that you have raised a number of issues that the next panelists with their experience in the field will be able to help give us some relief and direction and counsel on. Thank you very much.

Will the second panel please come forward? All right. I would like to welcome you here today and thank you for your participation. I would note for all here in attendance that we have a panel of three members who will be speaking accompanied by assistants. But the three who are speaking have considerable experience in the field, and we're very grateful for you being here to not speak necessarily in abstractions, but attending to principles as well as experience that you've had.

And with that, I will introduce you as you speak. The first one will be Mr. Robert Shea, who is accompanied by an assistant, Mr.

Howard Leikin. Mr. Shea is the Director of the Federal Emergency Management Agency as of June of this year. Is that correct, Mr. Shea?

Mr. SHEA. Actually, the Director is Joe Allbaugh, Madam Chairwoman. I'm the Acting——

Chairwoman ROUKEMA. Oh, I'm sorry. Deputy Administrator. I'm sorry. I'm sorry. Deputy Administrator for Mitigation.

Mr. SHEA. That's correct, Madam Chairwoman.

Chairwoman ROUKEMA. Federal Insurance Administration. But the point is, of course, that you have not just come to this department, but you've had nearly 25 years of emergency management experience serving in various capacities in FEMA. And for that, we are most grateful for you being here and giving us your advice and counsel. And you are accompanied by your Deputy Administrator who will not be speaking formally, but will be adding his supplementary understanding when necessary. Mr. Shea.

STATEMENT OF ROBERT F. SHEA, JR., ACTING ADMINISTRATOR, FEDERAL INSURANCE AND MITIGATION ADMINISTRATION, FEMA

Mr. SHEA. Thank you very much, Madam Chairwoman. And thank you, Members of the subcommittee. As Madam Chairwoman said, my name is Bob Shea.

Chairwoman ROUKEMA. Excuse me. I think you're going to have to pull those microphones closer. I don't quite know what the problem is with these microphones, but you have to speak directly into them and very close up. Thank you.

Mr. SHEA. Thank you. I am the Acting Administrator of the Federal Insurance and Mitigation Administration. And as you indicated, joining me today is Howard Leikin. Howard is the Deputy Administrator for Insurance. I have been in my job for about 30 days, as you indicated, but I have extensive background in mitigation. Howard, however, is a wealth of information on Federal insurance issues.

I appreciate the fact that you are willing to put our testimony in the record, and I wonder if I might just make a few brief opening comments, Madam Chairwoman.

Chairwoman ROUKEMA. Please. You have 4 minutes left. Thank you. Of your time.

Mr. SHEA. Well, it won't take me anywhere near that long. So we'll speed this along. I would really like to thank the subcommittee, Chairwoman Roukema, and particularly Representatives Bereuter, Blumenauer and Bentsen and now Representative Baker for addressing an issue of importance not only to the health of the National Flood Insurance Program, but to the many citizens living in flood-prone areas.

Congress and the Executive Branch have built an enviable arsenal of tools to respond to disasters, both pre-disaster and post-disaster. But one of the primary tools, the National Flood Insurance Program, is seriously challenged by the subject of this hearing. That is, repetitive loss or multiple loss properties. These properties have a disproportionate impact on the National Flood Insurance Fund. Thirty-eight percent of our losses are associated with just 15 percent of the insured properties that have had any loss at all, a very small percentage. Not to mention, of course, the impact on human lives.

FEMA has done much to counteract the impact of these properties on people and Government. The implementation of a repetitive loss strategy, including the identification of the 10,000 most egregious cases, and frankly, the enforcement in a pre-disaster setting of National Flood Insurance building standards. These building standards alone save us as much as $1 billion annually.

We have also developed very effective tools in a post-disaster environment to acquire, elevate or relocate these properties. But we do that really in partnership with State and local government. They are an integral part of how we operate.

We know that these tools work, and we also know that they are cost effective. But the job is immense, as has been indicated here earlier this morning. We have paid out in excess of $900 million in claims for these 10,000 properties, and frankly, while they continue to drain our resources, we can never achieve the vision that we jointly hold of a self-supporting National Flood Insurance Program that is the cornerstone of the Federal response to flooding.

Just as an anecdote, in Houston, as was indicated earlier, we are moving ahead more forcefully and more aggressively than we ever have. We have just announced a buyout of 200 properties in Friendswood, Texas. Of those 200, 122 are in the repetitive loss family. So we can make some progress. But I have to say that the job is so overwhelming that really we can't do it without your help.

So we are grateful for your time and your efforts and your support, and Howard and I stand ready to answer your questions. Thank you, Madam Chairwoman.

[The prepared statement of Robert F. Shea can be found on page 75 in the appendix.]

Chairwoman ROUKEMA. I thank you.

And now second we have Mr. Czerwinski. Mr. Czerwinski is the Director for Housing at the GAO, U.S. General Accounting Office. And Mr. Czerwinski, I understand that you have been with the GAO for approximately 21 years, and so you must be able to give us some perspective over time as to how we've effectively been dealing with the Flood Insurance Program. And I believe you've had a direct connection with that program since 1999 and have your experience.

But I would appreciate it if you would give us the benefit of that experience and help us with your assistant, Mr. Bob Procaccini and help us understand in context repetitive loss strategies. And maybe you can help us with the reference to what the previous speaker has said about building standards. I don't know if that's part of your testimony or not. Mr. Czerwinski.

STATEMENT OF STANLEY J. CZERWINSKI, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, U.S. GENERAL ACCOUNTING OFFICE

Mr. CZERWINSKI. Thank you, Madam Chairwoman. I very much appreciate the kind comments. And perhaps the toughest part of our hearing today is going to be trying to pronounce Bob's and my names.

[Laughter.]

Mr. CZERWINSKI. We had the opportunity to testify before this subcommittee in the last session of Congress, so we would like to commend you for revisiting what we consider to be a very important issue. And you just heard Members Baker, Blumenauer, Bentsen and Bereuter, as well as FEMA talk about some proposals for curbing repetitive losses.

We agree that repetitive losses are an important issue and we back the principles behind those proposals. What I would like to do first, though, is take a step back and provide a broader perspective in the Flood Insurance Program. There are three issues I would like to address today. First is the soundness of the fund. Second is repetitive losses, specifically some of the proposals we heard about, and third is some of the implementation issues, such as building standards, that these proposals raise.

The Flood Insurance Program is not actuarially sound, and this is by design. As the chart on your left shows, this program has suffered losses of up to $600 million in a given year. This is primarily because, as Mr. Bentsen mentioned, there had been a large number of properties that were grandfathered into the program, and many of these properties are substandard. These properties, which are substandard, represent about 30 percent of the portfolio, and as such, there is an $800 million subsidy that goes to them. These grandfathered properties pay about twice the normal premium, but that premium is still only about one-third of what is actually needed to cover the costs.

The question is if we were to raise the premiums, could those owners pay the higher premium? Would they pay, and what will we do if they don't? These questions also apply to repetitive losses. Repetitive losses comprise about 1 to 2 percent of the portfolio, yet they represent about 38 percent of the claims—a $200 million annual loss to the Federal Insurance Program. So you can see why we agree with the proposals. And targeting repetitive loss is essential for the subcommittee to consider.

The proposals we talked about today essentially have two parts. I consider them to be a carrot and a stick. The carrot is mitigation. And mitigation, simply put, is getting the properties out of harm's way. You may either want to move the property off the floodplain or elevate it above the flood level.

The stick is, if properties are not mitigated, then you raise the premiums so that they cover the costs. But what if the people with higher premiums can't or won't pay? Do we have the will, do we have the discipline, is it appropriate for us to deny any types of assistance? This raises several implementation issues.

Mitigation is neither simple nor cheap nor quick. At the funding levels for the proposals we've heard today it would take about 25 to 50 years to mitigate all repetitive loss properties. As such, that places a premium on having the worst properties mitigated first. This makes it very important that we have the information needed to do so. Essentially, you want to identify the worst properties. You also want to determine who is in them. Because who is in them affects their ability to pay.

FEMA is taking the first steps toward gathering this information, but there's still a long way to go. So if the carrot fails, what about the stick. Typically, repetitive loss properties belong to the poorest homeowners. So it is a legitimate question as to whether they can pay the higher premiums or not. If they don't, can we deny them disaster assistance, and will we do that?

The 1994 Act gives us an indication. That Act contains a provision that would deny disaster assistance to those who did not get required flood insurance. We've had a number of floods since 1994. There have been a large number, as we know, of homeowners who haven't had the required insurance, yet I don't know of any examples of us denying assistance to them.

What this points out is that flood insurance is not separate from the rest of the disaster assistance framework. It also means that repetitive losses by themselves cannot correct all the flood insurance challenges. But repetitive losses is certainly a good place to start. Taken together with repetitive losses, if we address such structural problems as those properties that were grandfathered in at subsidized rates, we will go a long way toward reducing the problems faced on a financial level by the Flood Insurance Program. It will also help us make disaster costs more manageable.

That concludes my statement, Madam Chairwoman. I would be glad to respond to any questions that you or the subcommittee Members may have.

[The prepared statement of Stanley J. Czerwinski can be found on page 89 in the appendix.]

Chairwoman ROUKEMA. Thank you. Thank you very much.

And now we have our final panelist is Rebecca Quinn. Ms. Quinn is President of R.C. Quinn Consulting Incorporated, which is a specialized program that deals with floodplain management and mitigation. I guess she has been a volunteer for many years and has put her volunteer experience into dealing specifically with floodplain management and has had extensive experience in Maryland, as I understand it.

Thank you very much. And Ms. Quinn, we're ready to hear you.

STATEMENT OF REBECCA QUINN, LEGISLATIVE OFFICER, ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.

Ms. QUINN. Thank you, Madam Chairwoman. I certainly have a challenge to rise to since my colleagues here all finished under 5 minutes.

As you indicated, I am the volunteer legislative officer for the Association of State Floodplain Managers. Including our 14 chapters, we represent over 4,500 State and local officials and other professionals engaged in all aspects of floodplain management and hazard mitigation.

I'll just jump right into it. We believe that there are some fundamental premises that any strategy to deal with repetitive losses should address. The details are in our written statement. I'll touch on six elements quickly.

As other witnesses have indicated, a strategy must be considered cost containment for the NFIP. This is not an entitlement program, it's not an enrichment program, it is a cost containment for the current policyholders and all future policyholders.

A program to mitigate less than 1 percent of the insured properties could save millions of policyholders hundreds of millions of dollars each year if the rates don't have to increase to continue to cover repetitive losses. Plus, more people will actually choose to buy flood insurance if the cost of insurance becomes more in line with their perception of risk.

The repetitive loss strategy should address cost-effective projects that are in the best interests of the NFIP. These are not arbitrary terms. They are defined. FEMA has some rather extraordinary tests one has to go through to determine whether a project is cost beneficial.

We also think it's important to realize that not all repetitive loss properties will fall into the group targeted for mitigation, especially those that get low-level, low dollar value damage. In those cases, we believe the best protection is continued purchase of flood insurance. It provides financial protection, although not property protection.

People who buy flood insurance don't usually qualify for various forms of Federal disaster assistance, including subsidized loans, nor do they usually claim the casualty loss deduction on their Federal income taxes. Because the repetitive loss strategy will ultimately save tax dollars, we believe it is appropriate to be supported by new general funds.

A strategy must encourage local planning for comprehensive, community-based solutions. Mandating only acquisition or projects that only deal with repetitive losses is too narrow.

We support focusing on projects that primarily address repetitive losses, but let's not cut the community out of the planning cycle. When you increase funding for projects, we urge a commensurate increase in funding for planning and technical assistance.

Existing insurance-based mechanisms need to be used effectively. The NFIP is, of course, an insurance program. Most flood insurance policies include coverage called Increased Cost of Compliance—ICC—that, in certain qualifying circumstances, helps to pay for mitigation using premium dollars.

We know FEMA is doing several things to make significant progress to make the ICC mechanism work more effectively, and we believe it is time for FEMA to exercise some authority granted to it in 1994 to allow the director to focus this mechanism on repetitive loss properties. If there are obstacles to implementation, we would urge that the subcommittee request a report so that you can determine what resolution might be appropriate.

Canceling flood insurance on certain repetitive loss properties is short-sighted. We have serious concerns with that approach and would much rather see an increase in premiums to actuarial rates if an owner declines a reasonable offer.

The subcommittee asked for several other topics to be addressed. One is the effectiveness of the NFIP. Where do I start? Our members definitely believe the NFIP is an effective program. No program is ever perfect. But clearly, without it, we would have more homes built flat on the ground rather than elevated to the current building standards.

We look forward to a comprehensive evaluation of the program that FEMA will be initiating shortly.

The current Flood Mitigation Assistance Program we believe is effective, although somewhat hampered by limited funding that is distributed to all States. Sometimes, because of the funding limitation, some of the quantities are rather small to deal with, but it is an important program and does foster local planning.

Mitigation of repetitive loss properties can be accomplished under existing authorities with some modifications, and we do support some elements of H.R. 1428, particularly the addition of new funds and the focus on repetitive losses.

I would like to end with a comment about flood hazard maps, a critical component of an effective repetitive loss strategy. The best mitigation is to "build it right" the first time. You asked for an additional comment on the building standards. The floodplain used for regulatory purposes is the 1 percent annual chance, commonly known as the 100-year. It is not all flooding. If we build to the minimum standard required, then in the long run, it is a cost effective construction standard.

But we do need to recognize that most flood maps only reflect current conditions, or, in fact, a large percentage of them are 15 to 30 years old. Good maps are important for mitigation projects, as well. If you're going to elevate a home, you need to know that the elevation you're raising the house to is the proper elevation. So we do urge support for the Administration's map modernization program which does identify a significant funding need over the next 6 to 7 years.

I look forward to any questions you may have.

[The prepared statement of Rebecca Quinn can be found on page 103 in the appendix.]

Chairwoman ROUKEMA. All right. Thank you. I'm going to limit my own time hopefully. But I'll tell you, I haven't been clear about what you have stated.

Let me ask whether it's Mr. Shea or Mr. Czerwinski who wants to answer first. We talked about the building standards, and Ms. Quinn has referenced that, and we should have firmer building standards. But given the present circumstances, why can we not be actuarially sound and make that our goal? I didn't get the feeling that Mr. Shea agreed with that. Maybe I'm wrong. And Mr. Czerwinski indicated that it's by design that it's not actuarially sound? Can you help us deal with that, and if we can't—because I think that is an absolute standard for myself. Would the two of you please comment further on that?

Mr. SHEA. Let me begin, if I can, Madam Chairwoman, and then I'm going to ask my colleague here, Mr. Leikin, to also address this issue. But the fact of the matter is, when the Congress passed the National Flood Insurance Act, it did not envision a program which would be actuarially sound. In other words, they always envisioned a program which would be required to provide subsidies to certain types of construction. Those are buildings that were built over the last 20 or 30 years that may have been built prior to the implementation of our flood mapping program or to the implementation of building——

Chairwoman ROUKEMA. You haven't done that component of it?

Mr. SHEA. Right.

Chairwoman ROUKEMA. All right. Continue.

Mr. SHEA. Let me turn it over to my colleague, Mr. Leikin.

Chairwoman ROUKEMA. All right. Yes, Mr. Leikin.

Mr. LEIKIN. As Mr. Shea just mentioned, the program was implemented as really a three-pronged effort. There is risk identification to let people know what the risk zones are and how they can build to avoid losses. It was a floodplain management program to effect better construction than had occurred prior to the program through lack of knowledge of the risk, and also to provide insurance.

We provide insurance really two basic ways. For structures that were built prior to the implementation of the National Flood Insurance Program, insurance was, in fact, made available at less-than-full-risk premiums. This was a tradeoff for communities joining the program.

Chairwoman ROUKEMA. Excuse me, Mr. Leikin, I'm sorry. I think we understand the past history. I'm trying to focus now on the future and how we get to reaching the future, whether it's actuarially sound, what the building standards are, and how we, in my mind, correct the mistakes or the growing mistakes, the growing body. We didn't realize, I don't believe we realized how large this problem was becoming until recent years. So I want to focus on what we do, and I think we should have the nerve or the desire or the intensity to raise the premiums to the point of where we may have to deny assistance otherwise.

Mr. Czerwinski, please.

Mr. CZERWINSKI. Madam Chairwoman, I think there are three parts to the question you ask. The first one is for newer properties, we want to definitely, as you point out, enforce building standards and sound location. Now there's a lot of properties that are already out there. We can't enforce building standards on the properties that are out there or change the location except through mitigation. And that's where mitigation comes into call. You move the property to a safer location, or you change the standard of the property by elevating it above floodplain.

Also, as you point out, properties that aren't mitigated bear a higher risk. Therefore, that calls for a higher premium. That becomes an issue of our discipline to enforce that, especially in the case of low-income homeowners. There also may be some type of program you might want to set up to assist those who can't afford higher premiums, but that's a separate issue.

The third part is how we set the rates right now, which is based on historical experience. It does not include a component for reserves. If there is a particularly catastrophic year, the program will go into the red, so we would need to set premiums also with reserves.

So, it's a matter of new building standards, dealing with the buildings that already are substandard, and building in adequate reserves for the program.

Chairwoman ROUKEMA. Thank you. My time is just about up, and I'm going to yield to my colleague, Mr. Bereuter, because he can take my time as well as his own, because he is the primary sponsor of the most outstanding bill that we have on the table here.

Mr. BEREUTER. Thank you very much, Madam Chairwoman. Thank you very much for the testimony, gentlemen. Mr. Czerwinski, in the GAO report it indicates that currently Administration officials estimate total premiums income from unsubsidized policyholders is currently about $500 million less than it would be if the rates had been actuarially based and participation had remained the same.

And then looking at the chart that shows the money coming in and money going out of the NFIP, Mr. Baker referenced that perhaps it was his handout, should I draw the conclusion—I'll let any of you respond to this—that many premium payers across the country are subsidizing others that are not paying actuarially sound rates, and that by making up this perhaps $500 million difference, they are also, by paying the higher rate, not contributing to the reserves that you mentioned are not being accumulated for the catastrophic events. Isn't cross-subsidization a significant burden on many taxpayers and many premium payers around the country that really shouldn't be paying as high a premiums as they are?

Mr. LEIKIN. May I respond to that please? There are two pieces of the program. New construction is charged premiums that are actuarially sound, and they're based on the long-term expectations of the losses.

The shortfall that you refer to, the $500 million, in fact, it's somewhat larger today. Our recent estimates would place that at $780 million. That shortfall is attributed to the older construction, the so-called "pre-FIRM" construction. Pre-FIRM policyholders are paying substantial premiums, an average of $610 per year, but they're inadequate for that risk for these older properties, not having been built to the program standards.

Mr. BEREUTER. Would you say that's true across the whole country?

Mr. LEIKIN. For those older properties, it's true that they're all paying approximately 35 to 40 percent of what their true full risk premiums should be.

There's no charge built into the new construction to subsidize those properties. We have, in fact, a premium shortfall. And the impact of that premium shortfall is that the program will go into borrowing more often. It impedes our ability to build up the reserves that Mr. Czerwinski mentioned, and it impedes our ability to repay borrowing. It's that shortfall that we can make great inroads in by addressing these most egregious properties that are these so-called repetitive loss properties. Of that shortfall, $200 million essentially is going to very few properties per year. That represents—well, even a smaller subset of that, the 10,000 that we would like to particularly target, represent approximately 15 to 20 percent of the premiums that the rest of the pre-FIRM policyholders are paying just to cover those properties.

So, there is certainly within that class of older structures, a fair amount of this subsidy, cross-subsidization to those who are having the most losses.

Mr. BEREUTER. Thank you very much. The bells are ringing. I'll ask just one more question, but it's a very basic one, and it's for you, Mr. Shea, or perhaps Mr. Leikin. What is FEMA looking for in repetitive loss legislation?

Mr. SHEA. Thank you, Mr. Bereuter. One thing I should note for the record initially is that both bills that are being considered by this subcommittee right now do contain additional resources. We think that would be clearly necessary in order to address this problem.

Second, we would appreciate flexibility in being able to determine the composition of repetitive loss properties.

Third, mitigation offers are to be made only when we know that funding is available. The offers should not be automatic based on a loss occurrence.

Fourth, we would use the existing mitigation program, that is, the Flood Mitigation Assistance Program, as the vehicle to carry this out.

Fifth, some limited non-cost-shared mitigation grant capability would be critical for us to have in order to target what we would think of as orphaned properties, where the community itself or the State would not particularly be interested in providing the cost share match for that.

Sixth, we need flexibility in defining the target group of properties. We need broad definition in the statutes, and we can refine that through regulation.

Seventh, we think it is preferable that if the mitigation offer is refused to go to full actuarial rates rather than some other more onerous measure.

Eighth, FEMA should not at any time really take ownership of properties. Our strength, the strength of our program, is built on our relationship with State and local governments, and that's where that should take place.

Let me observe as well if I can, for just one second, that both bills have laudable features to them. But we believe that the Bereuter-Blumenauer bill contains most of these features that we're looking for in terms of trying to administer this program.

Mr. BEREUTER. Thank you, Madam Chairwoman. Thank you, Mr. Shea.

Chairwoman ROUKEMA. Oh, I'm sorry. We have two votes on the floor, so I think we're going to have to recess for a period of 20 minutes at least. So if our panelists will be patient, we will return in approximately 20 minutes for continuing questions, and we will continue with Mrs. Kelly when we return.

[Recess.]

Chairwoman ROUKEMA. If the panel will take their seats, let's get started again with Congresswoman Kelly.

All right. We appreciate it. I am sorry 5 minutes later than I thought we'd be in returning.

Congresswoman Kelly.

Mrs. KELLY. Thank you, very much, Madam Chairwoman.

Mr. Shea, I'm going to cut right to the chase on the mitigation situation, because I think mitigation offers a great opportunity.

Just how much does FEMA need to be adequately funded for mitigation opportunities?

Mr. SHEA. Well, Congresswoman Kelly, the bills provide somewhere between $100-$120 million annually. We think that would be necessary for a 4- to 5-year period in order to fully address all of the ten thousand most egregious cases.

Mrs. KELLY. So you believe that the bill has enough money in it to adequately address all of the mitigation that you feel is necessary?

Mr. SHEA. Yes. When you take these bills in combination with the other tools Congress and the Executive Branch have, we believe the answer is yes.

There is also the Hazard Mitigation Grant program, which is obviously driven by disasters but does provide some opportunity, as well, and that averages around $250 million a year. So the combination of resources really is going to get us there.

The importance of these bills, however, is that they are specific and targeted toward the area that we're trying to go after, and so they provide us the flexibility we need in terms of administering a program to address them.

Mrs. KELLY. I want to go on. There are a couple of things.

During Hurricane Floyd, I learned a lot from some really wonderful FEMA people who came into my area. We were really heavily devastated. They came in and they taught me a lot of things. I think they taught a number of other people in the area what FEMA can and can't do and it raised my awareness of the need for education.

I am wondering about what you have been doing to amplify, and what you see we need to do to amplify people's awareness of flood insurance, its availability, how it works for.

Mr. SHEA. If I can, Congresswoman Kelly, I'll start on that question, then ask my colleague, Mr. Leikin also to fill in a little bit.

In general, one of the things that we've done recently, through Director Joe Allbaugh, is we have realigned, and we have now brought mitigation and insurance together in one house. That was a major step forward for us.

Part of that reorganization was recognizing the importance of educating everybody at all levels of Government and the population at large about what needs to be done in this area.

In many respects, my belief is that we're somewhat like environmental awareness was about 30 years ago. Thirty years ago, I didn't have much of an understanding of tin cans, but now my daughters teach me the importance of recycling is just the normal course of business. So we hope at some point in history, that we will be able to imbue a lot of the American public with that kind of understanding of risks in areas that they are living in, and how they can combat them.

The fact of the matter is, and I'm sure sensitive to this, when we understand the risks that we face, we can do something about them. That gives us control over our own lives and it's a very nice position to be in.

We also think that some of the other initiatives that the Agency's undertaken over time have been very beneficial. Our previous work in Project Impact, Joe Allbaugh's interest in supporting that and moving it to the next level, as you know, we are examining that, but that was a wonderful mechanism to educate people in general. And I think we are going to be able to build on the success of that initiative.

Mrs. KELLY. Thank you very much.

The only other thing I wanted to ask you very quickly about is whether or not you feel that we have adequate mapping. I'm beginning to believe that we need to readdress the whole issue of mapping and remapping.

For instance, there are people in my area, because as you know we live in a semi-mountainous area, the people who live on the mountain tops, because they are classified on maps as living in floodplains, are having to pick up the insurance, when I don't think you live on a mountain top and there's no possibility that your house is going to be flooded, I'm not quite sure why they should be assessed this, and perhaps you could address that for me.

Mr. SHEA. Yes. I mean certainly there are cases like where the maps show individuals being in the floodplain that are so clearly outside, and of course we have processes to deal with that, administrative processes to deal with that. Generally speaking, the maps that we have in this country from a flood standpoint are really egregiously out of date and I think we're all aware of that.

We've talked about our map modernization program and we are, we believe, beginning to make some progress in that area, but again I think funding is a major consideration in terms of an ability to bring our mapping in this area and all over the country up to a point where it becomes a real useful tool on a daily basis.

Mrs. KELLY. Madam Chairwoman, I would like to ask one follow-up question here. And that is whether or not there are any plans for cost-sharing with other agencies who would use the new maps?

Mr. SHEA. Yes, Congresswoman Kelly. We are investigating mapping across the entire Federal spectrum, and we are looking at the possibility of new technologies maybe playing a role in this. There are some exciting developments in that area. I think we need to investigate them, assess them, and make sure that we're comfortable, and they'll bring us to the level of information that we all need to have to work with.

But it's really a constant effort on our part to reach out to the U.S. Geological Survey and some of the other mapping agencies in the Federal Government, to make sure we and they are in lockstep. Of course, we also have mapping going on or mapping capability going on through satellite imagery and we're working in that arena as well.

Mrs. KELLY. Thank you very much.

Thank you, Madam Chairwoman.

Chairwoman ROUKEMA. Thank you, Congresswoman. I did appreciate your question on cost-sharing and that does open up a very intelligent component of this discussion that we should all be paying some attention to.

I'm not going to take any more time with this panel. We do have to get on to the third panel. But I would throw out to you a question that I have that if you choose to put in writing an answer to it for me directly, and I guess that's because I come from a State like New Jersey where zoning is very much a State and local prerogative, and I guess that is true across the country.

But I'm deeply concerned that local zoning and State zoning ordinance have not dealt intelligently or responsibly with this question. Why do we permit such, you know, and recommit to such flagrant violations of sensible zoning in the floodplain.

And if you could please give me some advice and counsel on that subject, and how we can deal with it, because after all, they are pushing up to the Federal level and other people, the cost, and the cost sharing for their own irresponsible actions.

And that's like putting a tax on all the rest of us rather than taxing those that have been responsible for the problem. So if you could give me some advice and counsel on that aspect of the question, I'd appreciate it. But we certainly appreciate your attendance here today and your patience, and I can guarantee you that all of this information in your testimony will be quickly distributed to the Members of the subcommittee.

Mr. SHEA. Thank you again for your interest and support.

Chairwoman ROUKEMA. Hopefully we can get some action quickly.

Mr. SHEA. We would appreciate it.

[The information referred to can be found on page 87 in the appendix.]

Chairwoman ROUKEMA. If the next panel, Panel 3, will come forward please.

[Pause.]

Chairwoman ROUKEMA. All right, thank you. Thank you very much. I'm very pleased to welcome here today one of New Jersey's own, Mr. Tim Richards, who is President of the New Jersey Association of Realtors, and he has been active in realty functions for many years and has received recognition all over the State, particularly in Cape May, identified as the realtor of the year. Mr. Richards, I believe, can give us a perspective from the realtor's point of view on this subject, and I hope my statement just previously made to the previous panel about the indicting local zoning ordinances, perhaps you would like to counter that inference, or at least give your own perspective, Mr. Richards. You don't have to be limited by that question of mine. But you know the legislation that's before us, please give us your evaluation.

Thank you.

STATEMENT OF TIMOTHY RICHARDS, PRESIDENT, NEW JERSEY ASSOCIATION OF REALTORS, ON BEHALF OF THE NATIONAL ASSOCIATION OF REALTORS

Mr. RICHARDS. Thank you for those kind remarks, Madam Chairwoman. Thank you for the opportunity to present the views of the National Association of Realtors on H.R. 1428, the Two Strikes You're Out of the Taxpayers' Pocket Act, and H.R. 1551, the Repetitive Flood Loss Reduction Act.

I'm Timothy Richards, a realtor from Ocean City, New Jersey, and the current President of the New Jersey Association of Realtors.

I own a full service residential real estate company and have been a real estate professional for many years. I wish to thank Chairwoman Marge Roukema and Ranking Member Barney Frank for holding a hearing on an issue that is of great concern to the realtors.

I would also like to thank Representatives Doug Bereuter, Earl Blumenauer, and Ken Bentsen for introducing legislation that would reform the Nation's current repetitive loss policy.

It is often said, and I agree, that realtors don't sell homes, we sell communities. The 760,000 members of the National Association of Realtors are concerned and active members of our communities.

When a flood strikes, our members are on the front lines to help our neighbors put back their lives.

Realtors care about flood insurance issues for a number of reasons. For realtors who sell houses in a floodplain, the cost of flood insurance is a critical part of the transaction. For low or middle income purchasers, it may even determine whether or not they can purchase the home.

For repetitive loss properties, realtors have a keen interest in having the appropriate information on the flood losses for disclosure purposes, making sure that flood insurance is accessible for those properties and keeping the costs of the premium as low as possible.

I would like to briefly discuss three issues with you today. First, the importance of the National Flood Insurance Program in protecting our homes and communities; second, NAR's perspectives on the concept of repetitive loss; and finally the issue that ties many of these matters together-the floodplain maps developed by the Federal Emergency Management Agency [FEMA] and how to update and modernize them.

The National Flood Insurance Program currently operated by FEMA partners with 19,000 communities nationwide and holds four million policies and provides approximately $5 billion in property loss coverage.

In my home State of New Jersey, some 546 communities of a total of 567 communities, partners with FEMA and there are over 175,000 policies in force that provide over $239 million in property loss coverage.

As realtors, we benefit from this program because it allows people to buy homes that are safe from flooding through flood mitigation activities taken by the participating community, and further protects that investment by providing access to affordable flood insurance that would otherwise be unavailable on the open market.

The strength of the National Flood Insurance Program in my State has allowed many people of all incomes to own a piece of the American dream. Unfortunately, owning a home in a floodplain can sometimes be a nightmare. This occurs when a property is subject to multiple floods and must dip into the National Flood Insurance Program more than once.

Currently, 45,000 properties nationwide have incurred two or more losses over a 10-year period. These properties cost the flood insurance program over $200 million annually. The top 10,000 structures alone cost the program over $80 million annually.

In New Jersey, over 5000 properties are considered repetitive loss properties with total payments of over $174 million. These multiple loss properties inflict serious economic harm to the flood insurance program by driving up the premiums for all policyholders and by allowing the entire system to rest upon an unsustainable actuarial foundation. These properties are not paying a premium that adequately reflects the risks they incur by residing in a floodplain.

NAR believes that the repetitive loss issue must be resolved and the flood insurance program be placed on firmer financial ground. However, we do not agree with the Administration's proposal to terminate flood insurance coverage for repetitive loss properties. By terminating a property's participation in the flood insurance program, it would be difficult for the owner to find affordable flood insurance on the open market. This draconian measure would result in a significant decrease in the value of the property and wipe out any previous investment the owner may have in that property.

NAR supports an approach to the repetitive loss issue that has three components. First the property is kept in the NFIP with access to flood insurance. Second, incentives to participate in flood mitigation measures or accept a buyout at fair market value or higher for the worst repetitive loss properties; and third, if both the buyout or the offer of mitigation is refused, the owner will be required to pay the highest premiums allowable.

This win/win approach allows the owner to stay in the property while paying a premium that reflects the risk of living in the floodplain. This approach will also reduce the Federal disaster assistance over long term by getting the worst repetitive loss properties either properly mitigated or bought out by FEMA.

A comprehensive reform of the current repetitive loss property must also reflect three additional issues that are of importance to realtors. First, some properties may experience repetitive losses as a result of upstream or downstream development that occurred after the properties were purchased or constructed. Some exception should be made for floods that were caused due to development activities.

Second, once a buyout has been completed, NAR has concerns about the use and ownership of the acquired floodplain property. We would encourage flexibility in determining how these properties are being used and maintained so that they do not become eyesores in the community and decrease the value of adjacent properties.

Finally, NAR would encourage the use of local appraisers and others who have knowledge of the local real estate market in determining fair market value for buyouts.

In addition to FEMA's proposal to the repetitive loss issue, NAR also has concerns regarding their proposal to increase flood insurance premiums on second homes and vacation homes. We would be troubled if these homes were denied access to flood insurance as well.

The last issue I want to discuss is the issue of FEMA's Flood Insurance Rate Maps, the well-known and much maligned "floodplain maps." Accurate floodplain maps are crucial during a real estate transaction in determining whether or not a property is in a floodplain, which in turn determines whether or not the owner will require flood insurance. NAR is concerned that sufficient budgetary resources are not being identified for FEMA to improve these maps, although we are pleased at the recent action of the House Appropriations Committee to provide FEMA with an additional $50 million to improve these maps. NAR supports all full funding for modernization of the Nation's flood hazard mapping program.

I would like to thank you for allowing the National Association of Realtors to comment on these critical flood insurance issues and repetitive loss challenges. We encourage the Members of this subcommittee to fashion a workable, bipartisan approach to resolving these issues, and we stand ready to work with you to get an equitable and cost effective law passed that would financially strengthen the National Flood Insurance Program and further protect all of our citizens from the ravages of flooding.

And I thank you very much.

[The prepared statement of Timothy Richards can be found on page 112 in the appendix.]

Chairwoman ROUKEMA. I thank you. I was generous with your time, but I hope that we'll have time before the next vote for everyone to be heard on this panel.

Mr. Fletcher.

Mr. WILLEY. Willey.

Chairwoman ROUKEMA. Willey, all right, thank you. Mr. Willey has been in the insurance business in North Carolina for many years since 1974. He's a member of the Board of Directors of the North Carolina Insurance Underwriting Association and the North Carolina Joint Underwriting Association.

Certainly he has extensive experience in this area, and we look forward to your advice and counsel.

STATEMENT OF FLETCHER J. WILLEY, GOVERNMENT AFFAIRS COMMITTEE, INDEPENDENT INSURANCE AGENTS OF AMERICA

Mr. WILLEY. Thank you, Chairperson Roukema and Members of the subcommittee.

My name is Fletcher Willey, and I'm pleased to have the opportunity this afternoon to give you the views of the Independent Insurance Agents of America on the National Flood Insurance Program. I am the Chairman of the Flood Insurance Task Force of the IIAA.

Let me begin by thanking Chairwoman Roukema, along with Chairman Baker, Chairman Bereuter, and Congressman Bentsen, along with Congressman Blumenauer for taking a lead on this very important issue.

I want to clearly state that IIAA supports the NFIP. The NFIP provides an important service to people and places that have been hit by a natural disaster. The private insurance industry has been almost entirely unwilling to underwrite flood insurance because of the catastrophic nature of these disasters.

Therefore, the NFIP is virtually the only way for people to protect themselves against the loss of their home or business by flooding. The NFIP has saved disaster assistance money and provided a reliable system of payments for people whose properties have suffered flood damage. We want this program to continue and we hope it will get stronger.

Our members, independent insurance agents, play a vital role in the delivery system for flood insurance. This system operates well and does not need revision. IIAA has not taken a position on these two bills yet. It is clear, however, that reforms in the program are necessary—I was referring to the delivery system, Chairwoman—necessary to address operating losses to make the NFIP actuarilly sound.

We support the intent of these bills and believe that introducing them is a step in the right direction. The GAO has pointed out that cumulative operating losses of the program totaled $1.56 billion from 1993 through 1998.

According to the GAO, multiple loss properties account for $200 million in claims per year and about 36 percent of all claims paid on an historical basis. We support the NFIP and we hope we will be able to work with this subcommittee as you evaluate the different proposals for reform to meet the fiscal goals of the program with the least disruption in the people's lives as possible.

Our members have significant experience with the NFIP and with the people who will be directly affected by reform: the flood insurance policyholders.

In fact, this is not just a professional matter for me. I live on Roanoke Island on the Outer Banks of North Carolina, and many of my neighbors suffered through the flooding of Floyd. So I have a degree of personal experience and personal investment in this issue.

What I would like to do this morning is to describe for you the five principles that IIAA believe to be essential to this needed reform.

First, strengthen building regulations. These regulations require communities to ensure that any new construction in the floodplain is built above elevation.

Second, any substantial improvement of existing structures is built with similar safeguards. Experience with the program demonstrates that building regulations work. In fact, only four percent of repetitive loss properties were built after 1974. In fact, damages to structures built to the current elevation standards are 40 percent less per claim than damages to older structures.

Second, increase compliance with the mandatory purchase requirements. FEMA has found that fewer than 25 percent of the buildings in some of the areas with mandatory purchase requirement are actually covered by flood insurance.

Third, the NFIP should have additional funding to provide resources for buyouts and mitigation grants. Buyouts allow residents to escape the cycle of damage and repair and damage and repair and the repetitive losses that we've heard discussed today. We should avoid creating new problems by pushing residents out of their homes without sufficient resources to relocate.

As long as the program is sensitive to the potential dangers of buyouts, buyouts can be a beneficial tool to improve the financial state of the NFIP. Former FEMA Director James Lee Witt has estimated that there will be a two dollar return on every dollar spent on buyouts of repetitive loss properties.

Experience with building standards has shown that many owners can elevate their homes and effectively mitigate their flood risk. In some cases, modifying the current property is less expensive and almost as effective as buyout. This option can help to preserve communities to the fullest extent possible. NFIP needs the authority and the resources to help property owners improve their properties before additional losses are incurred.

Fourth, we must stop abuse of the program through multiple claims. Some individuals have bought property in flood zones in order to take advantage of repeat payments from the NFIP. While this is a small subset, we must take action to have them out of the program or paying actuarial rates.

We need to also recognize that all repeat claimants are not abusing the system. There are some people who bought property without full knowledge of the flood exposure, and we must help those people.

Fifth and last, one of the best ways to avoid future problems with the NFIP is to give people full information about flood risk. As I said before, many people originally bought their properties without knowledge of the risk of flood. Therefore, reform of the NFIP needs to include mandatory disclosures of the flood claim history of the property so that buyers can make an informed choice on their purchases and so that they can properly value the home.

To make mandatory disclosure effective, we should create an accessible electronic database of flood losses.

Thank you for giving me the opportunity to express the views of the Independent Insurance Agents of America. We look forward to working with the subcommittee on this issue, and I'll be happy to take any questions that you might have.

[The prepared statement of Fletcher J. Willey can be found on page 118 in the appendix.]

Chairwoman ROUKEMA. Thank you very much.

And now our final witness is Mr. David Conrad, who is a water resources specialist for the National Wildlife Federation. Certainly we all know that Federation as one of the largest conservation organizations in the country.

And it is my understanding—well, of course, you've had extensive experience over the years—but it is my understanding that you have recently been the author of a report called "Higher Ground." A report, and there we have it and you're going to insert that into the record, I'm sure, a report on voluntary buyouts in the Nation's floodplains, a common ground solution serving people at risk, taxpayers and the environment.

And I hope we are able to have some communication here between yourself and the insurance and real estate people that we have.

Mr. Conrad.

STATEMENT OF DAVID R. CONRAD, WATER RESOURCES SPECIALIST, OFFICE OF FEDERAL AND INTERNATIONAL AFFAIRS, NATIONAL WILDLIFE FEDERATION

Mr. CONRAD. Thank you, Madam Chair. I do think from what we have just heard that we do have a lot of common ground on the issue of how to deal or work on repetitive losses as a problem and the National Flood Insurance Program.

Again, my name is David Conrad. I am water resources specialists for the National Wildlife Federation, and I am very pleased to present the Federation's views on the National Flood Insurance Program.

I also wish again to thank Representatives Bereuter, Blumenauer, and Bentsen for continuing their efforts to focus the Nation's attention on these problems, and thank Madam Chairwoman for holding these hearings.

Our written testimony includes quite a bit of material that came from our report that was issued in July of 1998, and I think I will dispense with going through a lot of the statistics that we have there, because I think a number of the facts that we found have been reflected in previous testimony.

But I would want to comment on maybe one issue that I heard in the last panel to start with that we found also that the National Flood Insurance Program was not actuarially sound. That has been verified by other witnesses. But I think an important thing to focus on was that while it may have been originally recognized that that was the case when the program was originally designed, I think it was always intended that it be moving toward actuarial soundness over time.

And that we found that progress has been greatly hampered by the way we have implemented the program. So that's really what the issue of this legislation is partly about, trying to get back to the progress toward an actuarially sound approach for the program.

I would like to focus I think the rest of my attention in this short time on the value of non-structural approaches and that are represented by the ideas behind these bills, and also our thoughts about the bills.

Madam Chairwoman, primarily since the 1993 midwest flood, FEMA reports that approximately 27,000 properties have been voluntarily purchased and removed from the Nation's floodplains and another 2800 damaged properties have been elevated or floodproofed largely after flood disasters. Hundreds of communities across the Nation have begun to utilize voluntary buyouts as a cost effective alternative means of reducing flood damages, and often, at the same time, restoring environmental health to streams and coast lines through establishment of open space, greenways, bike ways, parks, buffer zones, wildlife habitat areas and other such uses.

But in light of the NFIP's repetitive loss history, there is a strong need for additional funding that can be used for pre-disaster mitigation efforts that can save enormous private and public sums in the long run.

The National Wildlife Federation urges strong support for particularly H.R. 1428, because we believe the legislation provides the best framework for FEMA and NFIP participating communities to address a full range of problems associated with repetitive losses.

H.R. 1428 clearly addresses the need for increased funding for pre-disaster repetitive loss mitigation. The bill would fully engage States and communities in developing and implementing hazard mitigation plans, particularly by using the existing Flood Mitigation Assistance Program approach, and it is critical for the financial health and safety of the Flood Insurance Fund that owners of repetitive loss properties would pay rates that reflect the true risk associated with their properties especially if reasonable mitigation plans are offered and are refused.

We might add the following suggestions though that maybe could possibly improve this legislation. We would urge that the director and communities be given sufficient flexibility to address not only or not just repetitive loss structures, but also other structures or properties close by in the vicinity that are flood prone. This is the idea that flexibility may be needed to help communities establish cohesive plans for wide use of floodplains and sensible public infrastructure development.

We also would urge that new funds be made available for planning hazard mitigation projects. We would urge that mechanisms be established to assure that reasonable hazard mitigation offers would not cause severe hardship for owners and occupants of modest means particularly.

Successful hazard mitigation should include plans for adequate and affordable relocation opportunities for any residents involved.

As a means of addressing those concerns, we urge that FEMA be directed, to the maximum extent practicable, to coordinate efforts with Federal housing, disaster relief, and natural resource management agencies to help State and local agencies in developing mitigation plans.

We would also say while we fully agree with the objectives of H.R. 1551, it would require development of a wholly new program that we don't believe is actually necessary, given the success of Section 1366. The proposal of the Administration to cut off availability of flood insurance to repetitive loss properties after one additional claim would address the enormous financial strain these properties represent for the NFIP, but this approach would not guarantee that there would be action to remove high risk properties from harm's way.

We do support, however, the Administration's proposal to phaseout subsidized flood insurance rates for certain vacation homes and rental properties. Such subsidies can ultimately result in high cost to taxpayers, and much greater effort should be made to establish this program on an actuarially sound basis.

The last thing I would like to mention is just the map modernization program also. We strongly support the FEMA efforts to modernize the flood insurance maps. It is clear that many of these maps are reaching an antiquated age and no longer really reflect the risk involved. And, because the maps constitute basic planning documents for the Nation's urban and rural areas, they need to be accurate and updated.

They are of such fundamental importance to community development that it would be entirely justifiable, we think, to finance their updating with considerable general taxpayer funds and with appropriate fees and other contributions.

We strongly urge the subcommittee to identify and support approaches to provide the necessary funds for map modernization.

Again, on behalf of the National Wildlife Federation, I wish to thank the Chairwoman and other Members of the subcommittee for the opportunity to present our views, and would be happy to respond to your questions.

Thank you.

[The prepared statement of David R. Conrad can be found on page 123 in the appendix.]

Chairwoman ROUKEMA. Thank you.

I don't really know where to or how to question on this. The complexity of it has now been clearly identified here between what this panel is saying and what the previous panel has said except for, well, even Mr. Conrad, actually you have quite an overlay with both the insurance people and the realtors.

But I've got to say, and I think Mr. Bereuter, before he returned here, I had made the point that there have to be incentives for State and locals to have proper zoning, and I firmly believe that.

And I've got to say that we've got to recognize that the cost of flood insurance—and I'm very sensitive to the realtors, I'm very sensitive—but I cannot continue to let the subsidies, what we're doing to absorb the costs of these things, the cost of the insurance for people continuing in the floodplain, and with their multiple numbers of repetitive losses, we cannot continue to let them drive up the cost for all, and that to me is unsustainable.

I don't want to terminate flood insurance, I'm not yet at the point, unless Mr. Bereuter can convince me otherwise, to have FEMA absorb the costs of these buyouts, of all these buyouts. I don't know how we're going to deal with that.

But I do again, coming from New Jersey, where I have great belief in local zoning, that the local zoners are going to have to have the responsibility and recognize that the Federal Government should not be continuing to subsidize and sustain it.

I don't know if anyone wants to come back to me on that before I turn it over to Mr. Bereuter for his questioning. I don't have the whole answer, but I'm trying to integrate.

Yes, Mr. Conrad.

Mr. CONRAD. I see. Yes. Well, when we did our major study, and we spent a lot of hours thinking—days, weeks, months—thinking about these problems, I think our view is that the programs for buyouts and elevation, floodproofing, and so forth, probably should be considered a temporary or sort of transition program to deal particularly with existing problems that a lot of communities have.

But I think behind that needs to be a renewed focus on working with communities to properly grow and to take full awareness of the risks of locating in high hazard areas, such as floodplains, so that's my answer to your question, if that helps.

In other words, this shouldn't be a permanent situation.

Chairwoman ROUKEMA. You don't want to zone out?

Mr. CONRAD. I think that most communities should be using zoning to identify or to locate homes and businesses away from high hazard areas, yes. And that is really part of the Flood Insurance Program.

There were two parts, the provision of insurance and the guiding development away from harmful or——

Chairwoman ROUKEMA. But that hasn't really been in action.

Mr. CONRAD. I don't think we've had enough attention put to that.

Chairwoman ROUKEMA. That's what I'm saying.

Anyone else?

Yes, Mr. Richards, my friend from New Jersey.

Mr. RICHARDS. Concerning the zoning issue, in some parts of the country, I think it could be done, and I think it could be done very successfully.

In the very dense population areas, and New Jersey is certainly considered one of those where the horse is already out of the barn, and the majority of the land is already owned by someone, a rezoning that dramatically devalues a property can very easily be construed as a taking. And without some type of compensation, either from local zoning board, local community, Federal Government, State government, whatever, it could be a very, very difficult situation.

So I don't know that zoning will solve the problem overnight.

Chairwoman ROUKEMA. Excuse me, but this is done regularly across the country and certainly in New Jersey, this is done on a regular basis. Is there any legislation, whether it's for flood control or whatever, about rezoning and compensation? I don't think so, or is there?

Mr. RICHARDS. There are issues that surround that, yes.

Chairwoman ROUKEMA. No, there are issues that surround it, but there's no legislation that requires compensation, is there?

Mr. RICHARDS. Not that I'm aware of.

Chairwoman ROUKEMA. For flooding or for other reasons, rezoning for other reasons, not that I was aware of either.

All right, I'm sorry, I interrupted you. Do you want to add something?

Mr. RICHARDS. There was other point made about the taxpayers subsidizing all flood insurance and to me, there may be a perception that flood insurance is something for more expensive housing. And I think one of the areas that we've got to be ever aware of are the gentlemen from Louisiana and Texas, West Virginia, and areas that, you know, are not necessarily real expensive homes, but yet these are valuable family estates that have got to be maintained.

Chairwoman ROUKEMA. Someone else on the panel had made that point as well.

All right, thank you.

Mr. Bereuter.

Mr. BEREUTER. Thank you very much, Madam Chairwoman.

Gentlemen, I'm sorry I missed the first part of your presentations. I've been reading your testimony and I think I've caught up with those elements of testimony that you presented orally here or in writing.

And I must say, I thank you for a very positive set of testimony. Mr. Richards, I think in particular, if I might say so, the National Association of Realtors, in your testimony has been a very positive approach in looking for a win/win situation to protect your own customers.

The items that you go through, on page five, for example, are principles and concerns that are exactly those that I share. And so I appreciate the very positive and constructive tone of your testimony.

Mr. Conrad, I thank you for your support for the legislation offered by Mr. Blumenauer and myself. I certainly share your concerns about the need for a map modernization program that's accelerated. Many communities are waiting so long for the kind of modernization of their floodplain zoning areas, and in the meantime things have changed, and we provided some flood control protection which should exempt property owners from being required to have flood insurance, and that just is not reflected in many cases.

In other cases unfortunately the floodplain has expanded, and we need to have an indication of what really the flood hazards are in a community.

I followed Chairwoman Roukema's comments about zoning, and having written a lot of zoning ordinance myself, before I was elected to Congress, I'm certainly very much supportive of the need to avoid flood losses through the zoning ordinance. Generally, it is problem avoidance, and we're stuck, as one of you pointed out, with areas that have many, many nonconforming uses. Most of those repetitive loss structures are nonconforming uses that were built many years ago, especially in the older cities in this country, and so it's a big problem.

Earlier on, we had comments about Project Impact, which is, as I understand it, is not proposed for funding under fiscal year 2001 budget recommendation of the Administration. I must say I think that's a mistake. I know Project Impact has had a good impact within my own State and it's been used as a model for other communities to emulate, and so I think it's a big and very positive step forward.

One of you gentlemen, I think Mr. Willey, it was you, who cited former FEMA Director James Lee Witt as suggesting that for every two dollars spent in buyout or mitigation, every one dollar spent provides two dollars in return. And I suspect that's true, and I think that's something that needs to be emphasized.

When you referred in your testimony, Mr. Willey, to the athletic director of your local high school, that of course brings it down to a personal kind of note. And I think what we're looking for is a program to accelerate the mitigation and buyout circumstances that give him an alternative.

Right now, he would, as you suggest, be happy to have a solution, but, in fact, the Government is not there for a buyout program or a mitigation program. Though both Mr. Bentsen's and my bill attempts to deal with that by additional resources for FEMA for that purpose.

Let me ask you a couple of general questions—well, not so general, specific questions perhaps with respect to a comparison of the Administration's approach, which is only identified through their budget proposal at this point and, for example, the bill that Congressman Blumenauer and I offered.

Their definition of a repetitive loss structure would be properties with two or more losses of a thousand dollars in greater than a 10-year period, whereas ours are property at two or more NFIP claims have been paid.

So the burden is, the definition for the Administration is much more comprehensive in its impact, it seems to me. And then they lose their policy after the first flood.

Do you want to make a comment about the Bentsen, the Bereuter/Blumenauer versus the Administration's definitions on repetitive loss.

I saw your hand, Mr. Willey. I'm not sure if you want to address that or not, but I'd welcome you.

Mr. WILLEY. Yes, sir. Thank you for that opportunity. I think that's a crucial question, sir. People that have been hit by Floyd, which was supposedly a 1,000-year storm, and then one other $100 claim, or $250 claim, are, quote, "out of the program," by one standard.

We would support a standard that would be broader than that. By that I mean perhaps four claims of at least $1,000 dollars or more, or the standard that would be based on the value of the building.

We believe that it is important to keep people in the program, because once they're out of the Federal flood program, they have no incentive to build at proper elevations.

We would like to see as many people included in the National Flood Insurance Program an early strikeout, if you will. An early cancellation of the citizen's availability to participate in the National Flood Insurance Program, we think could result in some areas that would go downhill quickly. We would like to see people striving for elevation and striving for mitigation, but just to kick them out of the program would be tough to enforce.

Mr. BEREUTER. Do you think it's fair——

May I continue? I know I'm beyond my time here.

Chairwoman ROUKEMA. Yes, please another minute or two. Yes, two more minutes.

Mr. BEREUTER. Thank you very much.

Is it fair in your judgment, I would ask the two of you that represent the business-related associations, for example, for actuarial rates to be paid by a property owner that has had two NFIP claims paid if, in fact, they have turned down mitigation or buyout assistance?

Mr. RICHARDS. If I understand your question, that they would have a much higher premium to pay if they elected not to do one of the other two things. That was a recommendation that we had made in our remarks believing that we are providing something for that homeowner. If they are kicked out of the program, we also have a mortgaging issue, which could create some economic difficulty down the line.

Mr. BEREUTER. I don't see how we can kick them out of the program if we're not willing to buy them out. You know they have no alternative. In some cases, this is a desperate situation, as Ms. Carson raised the question, for example, well what's the real value of that home if we do get to a buyout stage.

Mr. WILLEY. We would support the actuarial rate availability and the fair determination of an actuarial rate from an insurance perspective. We have to support actuarial soundness, otherwise the system doesn't work.

I would point out very quickly, if I may, Madam Chairwoman, that we recognize that many, many, I think 96 percent or so of the repetitive loss properties are those properties that were built before we knew anything about the science of elevations.

These were places, my athletic director example, the house was built before 1972. Other houses surrounding that house are properly elevated and haven't suffered that same flood recurrence. So there is a great deal of value in the elevation requirements of the program, and offers for mitigation or buyout, and then an actuarial rate are the way to go.

Mr. BEREUTER. And actually the newer homes may have caused additional flooding for the original home that was built pre-FIRM?

Mr. WILLEY. I've seen that happen, yes, sir, but not in this case.

Mr. BEREUTER. Yes. I wonder if you have any comments about the desirability of the 125 percent figure that Mr. Bentsen uses? He's indicating property in three or more flood related damages with a cumulative cost of repairs equal or greater to 125 percent of the structure's fair market value would be considered a repetitive loss structure.

Mr. WILLEY. Yes, sir, I've looked at that. And I think it's important to determine whether or not we're talking about 125 percent of the market value after it's flooded three times, or before it had flooded three times.

Mr. BEREUTER. We got a response, by the way, from behind us when we were testifying in response to Ms. Carson's questions, and I might say it here for the record. FEMA said that they go back to the pre-flood valuation. However, if there are several floods, they don't go back to the first flood, they go back to the pre-most recent flood basis. So that's the calculation they use on the buyouts.

Anybody else have a comment regarding 125 percent element?

Mr. RICHARDS. I do it find difficult to put a blanket on any type of valuation, because community after community is completely different, different market areas, different localities, all carry different ways of establishing value, and I really don't know that you can put a blanket on that type of situation.

Mr. BEREUTER. Thanks to all of you, including you, Mr. Conrad, and Madam Chairwoman, I want to express my sincere appreciation for the fact that you've held this hearing and that we've had excellent panels of witnesses.

Thank you very much.

Chairwoman ROUKEMA. Well I thank you for your cooperation and your leadership, not only cooperation, but it's your leadership that really motivated the subcommittee to have this hearing and hopefully we can all move together and get something expedited for consideration in this Congress.

I would also point out, as I think I made reference to in my opening statement, the fact that Mr. Dale Shipley, the Executive Director of the Ohio Emergency Management Agency was not able to be with us today. He was to have served on this panel, and I would ask unanimous consent to insert into the record his prepared statement for this hearing. The irony of it is that he is not here because he is attending to needed flooding concerns in Ohio that have been afflicting southern Ohio, so he's out there taking care of flooding problems in Ohio. Perhaps he'll come back and put in an addendum to his testimony based on his experience this week. I thank you very much.

[The prepared statement Dale W. Shipley can be found on page 134 in the appendix.]

Mr. BEREUTER. Madam Chairwoman.

Chairwoman ROUKEMA. Yes.

Mr. BEREUTER. I would ask unanimous consent to include the appendix prepared by staff, a Comparison of Repetitive Loss Property Proposals.

Chairwoman ROUKEMA. Yes, that will be included. Thank you again and we look forward to working with you and hoping that we can expedite something for this Congress.

[Whereupon, at 1:20 p.m., the hearing was adjourned.]

A P P E N D I X

July 19, 2001

Statement
Marge Roukema
Chairwoman
Subcommittee on Housing and Community Opportunity
Hearing on National Flood Insurance Program
July 19, 2001

Good morning. This is an extremely important hearing today and I appreciate our witnesses being here to provide us with information that will help us better understand the complexities of the National Flood Insurance Program and specifically the issues regarding repetitive loss properties.

Floods have been, and continue to be, one of the most destructive natural hazards in terms of economic loss to the nation. The National Flood Insurance Program is a valuable tool in addressing the losses incurred throughout this country due to floods because it assures that businesses and families have access to affordable flood insurance that would otherwise be unavailable on the open market. The National Flood Insurance Program has helped many in my state and across the country to partake in the American Dream of owning a home.

The National Flood Insurance Program was created as part of the National Flood Insurance Act of 1968. Prior to that time, insurance companies generally did not offer coverage for flood disasters because of the high risks involved. National flood insurance is now available in more than 19,700 communities across the United States and its territories. In order to participate in the program, communities must agree to abide by certain hazard mitigation provisions. These provisions include adopting building codes that require new floodplain structures to be protected against flooding or elevated above the 100-year floodplain.

We are not strangers to floods in New Jersey or to the importance of this program to homeowners and businesses. Over 546 New Jersey communities have partnered with FEMA to provide over 175,000 policies that provide $239 million in property loss coverage. In New Jersey we know how important it is that this program continue to be a viable option.

That is why we must take steps to reform the National Flood Insurance Program and enact legislation to place it on firmer financial ground. Today, GAO will testify that the program is not actuarially sound because it does not collect sufficient premium income to build reserves to meet the long-term future expected flood losses.

Clearly, repetitive loss properties are a major drain on the current system. FEMA defines repetitive losses as two or more losses greater than $1,000 each within a 10- year period. About 38 percent of all program claims are repetitive losses. Currently, about 45,000 properties nationwide have been flooded on more than one occasion and have received payments of $1,000 or more for each loss. The total cost of repetitive loss structures over the years has been approximately $3.8 billion. In New Jersey, over 5,000 properties in are considered repetitive loss properties, with total payments of over $174 million.

The repetitive loss structures is not only a serious drain on the program, but the high cost of multiple loss properties leads to increased premiums for all other policyholders.

It just does not make sense to pay to rebuild the same property over and over, year after year. That is why we must move forward with legislation to reform this important program to assure that it remains financially sound. Certainly the Administration has recognized the need for reform and has proposed significant changes. The Administration's proposal as outlined in his 2002 budget calls for policyholders whom FEMA has identified as repetitive loss claimants to be allowed one more claim before having their insurance policies terminated. No additional funding is provided for flood mitigation efforts.

We are fortunate to have four distinguished Members of Congress on our first panel to discuss the proposals they have introduced. **Congressmen Bereuter and Blumenauer have introduced HR 1428, Two Floods and You are Out of the Taxpayer's Pocket Act of 2001** focuses on efforts to help FEMA reduce the amount of money spent on frequently flooded properties.

Congressman Bentsen has introduced HR 1551, the Repetitive Flood Loan Reduction Act which focuses on efforts to help FEMA reduce the amount of money spent on repairing frequently flooded properties.

Finally, I understand that **Congressman Baker** introduced legislation late last evening. As a representative from Louisiana, Mr. Baker is no stranger to this issue and we look forward to hearing about the details of his legislation.

I would like to make one parochial observation. Coming from a state that has a high cost of living, I believe that it is essential that any flood buyout program we establish make allowances for higher property values in areas like New Jersey that have a higher cost of living. With that I would like to thank all of our witnesses for being here today, and I look forward to your testimony.

With that I would like to recognize my distinguished Ranking Minority Member, Congressman Frank.

Opening Statement

Chairman Michael G. Oxley

Committee on Financial Services

Subcommittee on Housing and Community Opportunity

July 19, 2001

"The National Flood Insurance Program and Repetitive Flood Losses"

Thank you Chairwoman Roukema. Today the Subcommittee addresses a problem that we're reminded of with each serious flood, storm or hurricane: some properties flood time and again and then must be bailed out at the expense of others.

For this reason, I want to commend my colleagues for bringing this issue to the attention of the Subcommittee. As noted, Representatives Bereuter and Blumenauer have introduced H.R. 1428. Representative Bentsen has introduced H.R. 1551. A bill was introduced on this topic just yesterday by Representative Baker, whose district has been especially hard-hit by floods in the past.

With approximately $200 million being spent on an annual basis on repetitive flood loss properties, it is important that we in the Congress work with the Administration to address this issue. Any solution must balance the need for residential flood insurance with the need for fiscal responsibility. We are responsible to the taxpayers to reduce unnecessary liabilities. Similarly, property owners in flood-prone areas must be responsible for working with their communities and with the Federal Emergency Management Agency to avoid repetitive flood losses.

I am confident that and the testimony of all our witnesses will be of great help as we attempt to find a more efficient and effective approach to eliminating costly repetitive flood losses throughout the United States.

Once again, Madam Chairwoman, thank you for providing leadership on this issue.

OPENING STATEMENT
CONGRESSWOMAN JULIA CARSON
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
JULY 19, 2001

THANK YOU MADAM CHAIRWOMAN.

BEING FROM INDIANAPOLIS, THERE IS NOT A LOT OF FLOODING OR DAMAGE TO BUILDINGS DUE TO FLOODING. HOWEVER, IT IS A SERIOUS PROBLEM NATIONALLY AND I WILL FOLLOW IT CLOSELY.

WHILE THERE HAVE BEEN MANY ANECDOTAL STORIES OF PEOPLE WHO HAVE RECEIVED NUMEROUS CLAIMS FOR THE SAME DAMAGE OCCURRING YEAR AFTER YEAR, I AM CONCERNED ABOUT THE LOW INCOME, OR MINORITY FAMILIES WHO MUST LIVE IN THE FLOOD-PRONE AREAS BECAUSE THESE ARE THE ONLY AREAS THEY CAN AFFORD TO LIVE IN.

THESE PEOPLE HAVE NOWHERE ELSE TO GO AND ANY MITIGATION EFFORTS CONDUCTED BY FEMA MIGHT END UP COSTING THESE PEOPLE MORE THAN JUST A HOUSE. IN MANY OF THESE INSTANCES, THE AMOUNT GIVEN FOR A BUYOUT MIGHT NOT COME CLOSE THE COST OF A NEW HOUSE IN ANOTHER PART OF TOWN.

I LOOK FORWARD TO HEARING FROM THE PANELS HOW THE DIFFERENT PLANS WILL BALANCE THE NEEDS OF SAVING MONEY WITH THE NEEDS OF OUR CONSTITUENTS TO HAVE AN AFFORDABLE PLACE TO LIVE.

I YIELD BACK THE BALANCE OF MY TIME.

Statement of Congresswoman Sue Kelly House Financial Services Subcommittee on Housing and Community Opportunity Hearing on the National Flood Insurance Program

Thursday, July 19, 2001
2128 Rayburn House Office Building

I would like to thank Chairwoman Roukema and Ranking Member Frank for agreeing to hold today's hearing on the national flood insurance program. Flood insurance, because of the cost and historical unprofitability, is offered and administered by the federal government. This is right since it is the proper roll of government to provide what the private sector is unable to; a safety net people themselves are not able to obtain.

Congressman Bereuter has introduced his legislation, H.R. 1428, entitled "Two Floods and You are Out of the Taxpayers Pocket." I have reviewed this legislation and agree that there is a problem with the flood insurance program from a group of people repeatedly receiving compensation for losses of less than 50 percent with no steps taken to prevent such damage from occurring again. I also agree that this bill solves the problem. The National Flood Insurance Program was not created to cover houses unwisely built in flood prone areas such as beaches or riverbanks. Changes should be made to ensure that the government is not subsidizing development in these areas through this program.

I have some concerns regarding the effectiveness of the current coverage of the flood insurance program and see if we can adjust the program to develop a better system for coverage. I am not advocating any substantive changes to the program B just trying to ensure that the requirements for flood insurance when someone is applying for a mortgage are appropriate for the area. In short, the National Flood Insurance Program needs to improve the accuracy of their Flood Insurance Rate Maps (FIRM). These maps must make better determinations for what is and what is not a flood area. I represent upper Westchester, Putnam, lower Dutchess and a portion of Orange counties in New York. My friends and neighbors remember the damage that hurricane Floyd inflicted on our area almost two years ago. The damage I witnessed was the worst I have seen in all my years living in the area. Houses - buildings destroyed, small business people left without recourse when they tried to save their means of making a living for themselves and their families.

I want to ensure that the requirements for flood insurance for new or second mortgages are sufficient to cover potential perils of risk. Out of the estimated 9 to 11 million U.S. homes in flood plains only 4.3 million have flood insurance. With these relatively new requirements for flood insurance on government backed mortgages in flood plains we will continue to have more new policies written every year. This requires a balanced approach since, on one hand, flood insurance proved vital when we were hit by tropical storm Floyd and, on the other hand, flood insurance does cost an average of $350 a year. I would like to explore the possibility of a policy that would assess each individual home's potential for flooding instead of simply requiring an entire town's coverage. At times storm damage can be quixotic and we may need flexibility in a federal policy.

We all have the duty to ensure that we take every step possible to learn from the hard lessons the power of a storm's fury teaches us. We must ensure that any sort of repeat performance can be met with our best preparations to assist people harmed by such a tragedy, while at the same time ensuring they are not repeatedly harmed.

I want to thank our distinguished panel of witnesses for taking the time to join us here today to share with us their considerable knowledge on the flood insurance issue. I look forward to working with you and the members of this committee to ensure we have the best flood insurance program possible.

Thank you madam Chairwoman and I yield back the balance of my time.

Subcommittee on Housing and Community Opportunity

July 19, 2001

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 Strom 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 unforseen 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.

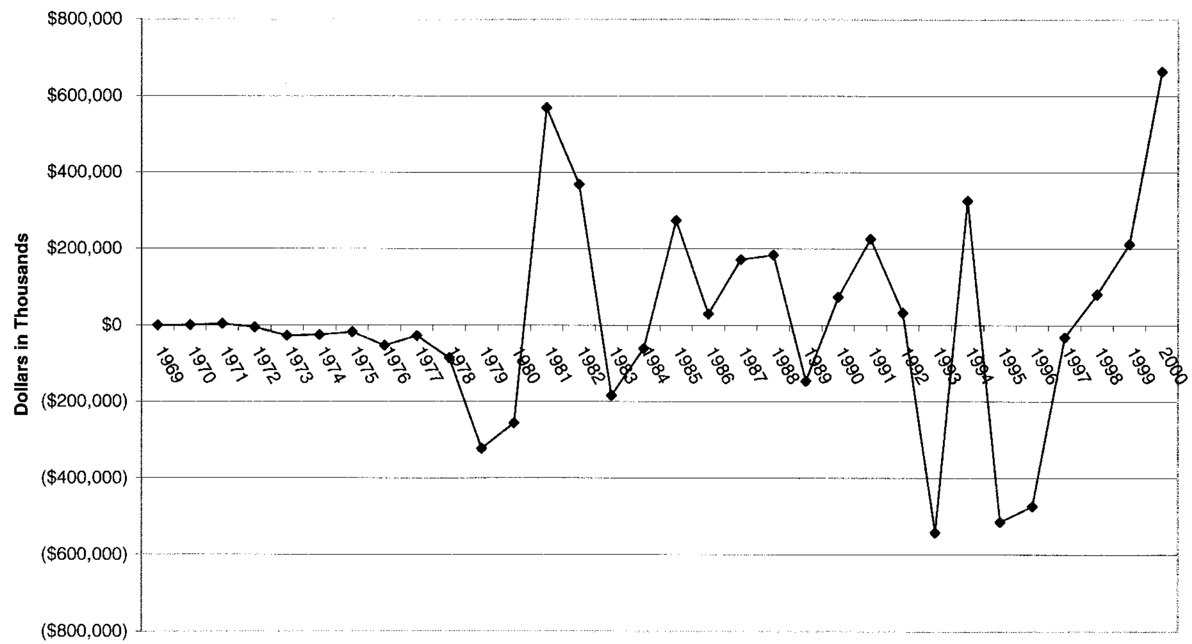
Policy Statistics

in effect on report "AS OF" date below

POLICY STATISTICS
COUNTRY-WIDE
AS OF 12/31/2000

State Name	Policies In-Force	Insurance In-Force ($100)	Written Premium In-Force
Alaska	2,482	3,190,769	1,079,264
Alabama	37,023	41,833,271	15,045,036
Arkansas	13,563	9,611,400	5,525,665
American Samoa	7	5,882	3,009
Arizona	27,177	35,838,098	10,736,647
California	346,849	520,955,039	150,825,553
Colorado	14,661	19,931,929	7,293,521
Connecticut	29,405	42,569,781	17,861,487
District Columbia	350	365,926	115,612
Delaware	16,372	22,697,296	7,174,499
Florida	1,740,072	2,329,996,936	569,262,781
Georgia	63,210	95,167,004	27,379,471
Guam	199	247,581	133,632
Hawaii	40,365	49,413,414	12,822,314
Iowa	9,970	8,245,128	5,208,595
Idaho	5,204	8,018,911	2,146,859
Illinois	44,358	43,739,473	20,930,105
Indiana	25,579	21,444,656	12,229,708
Kansas	10,602	9,043,560	4,805,375
Kentucky	20,082	15,995,962	9,210,611
Louisiana	353,811	403,927,581	140,398,664
Massachusetts	38,439	52,626,805	24,431,662
Maryland	48,942	53,772,067	15,845,344
Maine	6,986	8,190,491	3,914,627
Michigan	25,650	25,096,115	11,917,218
Minnesota	7,976	8,517,945	3,654,465
Missouri	21,898	21,067,318	11,703,794
Mississippi	41,644	40,871,555	16,662,433
Montana	3,152	3,166,265	1,357,089
North Carolina	101,640	139,494,422	42,544,081
North Dakota	5,972	6,971,282	2,893,088
Nebraska	12,803	10,892,961	5,507,771
New Hampshire	4,657	5,261,688	2,510,245
New Jersey	175,523	239,296,637	89,425,003
New Mexico	11,791	11,847,278	4,677,926
Nevada	11,881	18,390,586	5,407,822
New York	93,232	134,145,749	55,025,608
Ohio	34,329	29,508,522	16,802,131
Oklahoma	14,594	12,900,618	6,209,004
Oregon	26,030	36,776,539	11,846,942
Pennsylvania	62,259	65,095,484	32,071,947
Puerto Rico	47,864	30,087,960	17,307,974
Rhode Island	11,142	15,282,551	7,397,197
South Carolina	134,608	209,521,679	53,129,798
South Dakota	2,962	2,922,856	1,336,954
Tennessee	14,567	16,665,977	6,527,467
Trust Terr Of Pac	1	730	184
Texas	349,036	474,770,095	127,620,159
Utah	2,291	3,124,747	976,234
Virginia	76,472	104,487,065	29,492,416
Virgin Islands	2,335	2,535,595	1,263,283
Vermont	2,725	2,747,604	1,508,268
Washington	27,775	36,133,687	12,471,175
Wisconsin	12,845	11,967,902	6,021,278
West Virginia	18,142	12,392,572	8,636,327
Wyoming	1,914	2,418,086	894,487
Unknown	7	5,645	3,751
TOTAL	4,255,425	5,531,194,675	1,659,183,560

Year End Results



Year End results derived through subtracting total insurance expenses and transfer fees from total revenue and appropriations.

East Baton Rouge Parish
Office of Emergency Preparedness

222 St. Louis Street, B-230
Post Office Box 1471
Baton Rouge, Louisiana 70821

(225) 389-3035
(225) 346-0281 Fax

JOANNE H. MOREAU, CEM
Director

July 9, 2001
OEP:JHM:KC070901

Honorable Congressman Richard H. Baker
House of Representatives
5555 Hilton Avenue, Suite 100
Baton Rouge, LA 70808

RECEIVED
JUL 10 2001
Congressman Richard H. Baker
Baton Rouge, La.

RE: Darrin and Michelle Vicks
12130 Gibbens Road
Baton Rouge, LA 70807

Dear Congressman Baker:

In response to your letter dated June 19, regarding a federal buyout program for Mr./Mrs. Vicks, I submit the following information:

Ms. Vicks was contacted by our office regarding her residence located at 3740 Donaldson Drive, which she stated received approximately 4.5 feet of water during the recent tropical storm. Additionally, Ms. Vicks has provided the following information:

Estimated Content Loss:	**$38,900**	**Appraised Content Loss:**	**$15,800**
Estimate by Contractor:	**$56,000**	**Appraised Structural Damage:**	**$49,000**
Estimated Loss:	**$94,900**	**Total Appraised Loss:**	**$64,000**
Estimated Value of Structure:	**$80,000**	**Living Area:**	**1675 sq. ft.**

East Baton Rouge Parish currently participates in a Hazard Mitigation Grant Program that conducts buyouts of repetitive loss structures; however, this structure is not qualified for the current federal program. Federal funding sponsors this voluntary parish initiative at a 75% federal – 25% homeowner cost share.

Our current program ranks over 700 repetitive loss structures (those structures having 2 or more flood claims in the past 10 years as reported to the National Flood Insurance Program, with a minimum of $2000 in damage for each claim). Based on the total number of claims, as well as the total dollar value of loss, eligibility and ranking is determined. The top 50 ranked structures or the "worst of the worst" are currently being considered for acquisition in this voluntary federally funded program.

On July 5, 2001, the Louisiana Office of Emergency Preparedness notified our office that funds in excess of $2,000,000 would be available for a new Hazard Mitigation Program. However, with 22 parishes competing for these funds, this limits our ability to address a large number of the recently flooded areas.

We will continue to devote our resources to the development and funding of buyout programs which identify and target residences like that of Mr. And Mrs. Vick. I am in hopes that Louisiana will receive additional federal funds from the Federal Emergency Management Agency for programs to help the affected areas. However, until such funds are awarded to East Baton Rouge Parish, I encourage Mr. And Mrs. Vick to work with the federal agencies that can assist in addressing the many financial constraints that flood victims must endure.

I hope that this answers some of the questions raised. Please be assured that new programs, as they are developed in East Baton Rouge Parish, will be fair and equitable and that all processes will give priority to those areas that have been hardest hit. Should you have any questions, please feel free to contact me.

Thank you for your commitment to public safety and citizens' peace of mind. This is demonstrated as you continue to work to ensure that our community will once again have an opportunity to receive funding for new mitigation programs that provide substantial aid to flood victims like Darrin and Michelle Vicks.

Sincerely,

JoAnne H. Moreau, CEM
Director

Pc: Jim Brewer, Assistant Chief Administrative Officer, Office of the Mayor-President
Fred Raiford, Director, Department of Public Works,
Keith Cranford, Assistant to the Director, Office of Emergency Preparedness

Testimony of Congressman Ken Bentsen

Before the Subcommittee on Housing and Community Opportunity
Committee on Financial Services
U.S. House of Representatives, Washington D.C.

July 19, 2001

Good Morning. I want to thank Chairwoman Roukema and Ranking Member Frank for holding this hearing on the National Flood Insurance Program (NFIP) and repetitive loss properties. As in April 1999, this April I reintroduced the "Repetitive Flood Loss Reduction Act" (H.R. 1551), legislation I believe will greatly reduce repetitive NFIP claims. I am pleased that my colleagues, Rep. Bereuter and Rep. Blumenauer, have reintroduced their legislation. I look forward to working together to reach a consensus approach on how to approach repetitive loss property owners and effectively bring relief to the NFIP and the taxpayer.

I would like to thank and commend also Rep. Baker and all our panelists from FEMA, GAO, the National Emergency Management Association, the Association of State Floodplain Managers, National Wildlife Federation, National Association of Realtors, the Homebuilders Association, and the Independent Insurance Agents of America, all of whom have dedicated much to the improvement of flood disaster policy in this area.

I was very encouraged by the amount of cooperation, creativity, and compromise exhibited by my colleagues and our staff in addressing these issues in the last Congress. Our work in 2000 succeeded in producing several draft versions of a Bentsen-Bereuter-Blumenauer bill, and I am optimistic we can resolve differences between the bills and produce legislation this Subcommittee and the Financial Services full committee will enthusiastically endorse. I want to say up front that the most significant difference is which definition of repetitive loss to use.

Perhaps most important is for the Committee to understand that the National Flood Insurance Program is not a boondoggle, but a necessary safeguard for millions of American homeowners who are neither wealthy nor living in beachfront mansions. Many tens of thousands of my constituents and fellow Houstonians have paid dearly for the peace of mind flood insurance brings, most of whom rarely, if ever, file a claim. After the deluge of Tropical Storm Allison, which flooded the Greater Houston area from June 5 to June 11. Many of these folks are now glad they have insurance.

One of these constituents of mine is a local elected leader, Mayor Wayne Riddle of Deer Park, Texas. An insurance man by trade, Mayor Riddle is a model NFIP policyholder. His home flooded only once (before Allison) in the last 20+ years, and his home is not located in the floodplain. He admitted to me that he considered dropping coverage since it was not required, but he did the right thing. A home out of the floodplain with two floods in over 20 years sounds like an ideal candidate for NFIP insurance, not a candidate for a buyout. The cost-benefit ratio for buyouts of two claim houses will not be as advantageous as for costly properties. When we produce a consensus proposal, I hope that we will keep the situation of homeowners like Mayor Wayne Riddle in mind.

Considered by many a 500-year rainfall event, Tropical Storm Allison was incredibly devastating to Southeast Texas, causing an estimated $4.8 billion in damage in Harris County, the most developed affected county. Allison dumped 30 to 40 inches of rain in parts of Harris County--as much as 15 inches in a 6-hour period in some locations. This incredible event that prompted the Harris County Flood Control District to uncover a meteorological theory developed by the National Oceanic and Atmospheric Administration (NOAA) termed "total maximum precipitation." In geographically limited, but highly developed and sensitive areas, the sky delivered the highest amount of moisture allowed by the laws of physics to the ground beneath. This was from a tropical storm that did not make the traditional journey from the West coast of Africa, but formed spontaneously the Gulf of

Mexico, greatly reducing the warning time. This delay had tragic and expensive consequences.

FEMA reports that approximately 25,000 NFIP claims have been filed by Allison affected homeowners in Texas and Louisiana totaling $350 million, or an average $14,000 per Allison claim (the average claim for Hurricane Andrew in Florida was $17,000). In reaction to these claims back in June, Howard Leikin, deputy administrator of FEMA's Federal Insurance Administration stated, "unexpected events like Tropical Storm Allison underscore the need for flood insurance." I could not agree with him more. I believe we need to keep affordable flood insurance available for homeowners in coastal and riparian areas. However, we urgently need to address the 1,267 costly repetitive loss properties in Texas, and I suspect that many of them experienced damage again during this extraordinary event.

We all know repetitive loss claims in the NFIP are excessive, with many ridiculous claim histories that were never intended with the creation of the NFIP. The most costly 10,000 or so structures are costing, on average, $8000 per structure, per year--$80 million. As a Representative from a district that has over 30,000 households in the NFIP, I know that, the NFIP is now less effective at achieving the goals of limiting federal disaster outlays and promoting proper building standards as a result of many complex and varied factors. A short list of these would include extensive development growth in many coastal and riparian watersheds, a significant increase in violent tropical storms affecting our nation's Atlantic and Gulf coasts, a long learning process on flood control projects, subsidence from groundwater pumping, deficient stormwater facility maintenance and the unmet need for valuable topographic data for floodplains.

I believe that NFIP was a fundamentally positive step in improving emergency management. The NFIP was intended to limit federal flood recovery liability in the 100-year floodplain and shift most of the responsibility of flood damage recovery to homeowners in the floodplain through premiums. As GAO noted in the 1999 hearing, the NFIP was not designed to be actuarially sound because of the high number of grandfathered, pre-FIRM structures included. It was understood that many of these homeowners are working class families who moved or built before floodplain management and planning became standard practices. It was also understood that moving or raising millions of structures in the floodplain was a economically and politically impossible undertaking. This point is important, because in Harris County buyout funds have often run short of demand. In addition to limiting federal disaster liability, NFIP is a valuable incentive for the federal government to voluntarily but vigorously promote national floodplain building standards by setting eligibility criteria for policyholders. As I will note again later, post-FIRM properties in the floodplain are not often repetitive loss properties.

There may be many culprits in the repetitive loss story--city planners, developers, Congress and the federal government, but it is also important to understand that floodplains change, usually expanding, as a result of upstream development. Remapping of the watersheds in my district from 1996-1999 brought 9,637 housing units into the Special Flood Hazard Area (SFHA), or floodplain, and ultimately into the NFIP. I do not believe it is right to hold all 4 million NFIP policyholders responsible for development decisions made primarily on the local level before topographic information was available the way it is today. The NFIP was created for these homeowners, and I believe they will feel cheated if they have paid several thousand in premiums and lose their coverage after a couple of $1000 claims.

I would like to reemphasize my focus on the repetitive loss homeowner caught in this destructive, expensive, and often hopeless cycle. People who come familiar with the issue of repetitive loss, through an article or network news story will ask: why do these people live there? Most people believe they would have the common sense to not locate their family in this kind of terrible situation. I would remind all interested that only 4% of repetitive loss properties are post-FIRM, meaning built after 1974 or when rate maps were done for a particular community.

This means that 96% of repetitive loss properties were constructed either when they were not in the floodplain, when the floodplain was not understood, and in a era before the federal government was actively working to encourage national floodplain building standards. I my view, it is wrong to determine that all of these homeowners and families are "abusing" the system. I support removing these structures from the floodplain, but I believe these homeowners have committed no abuse that they had any control of and deserve compassion in a repetitive loss reform effort.

I would like to strongly state my concern for lower-income homeowners that these proposals would affect. Many may believe that the NFIP mainly subsidizes wealthy seaside developments in popular vacation spots, but I know that in my district many of these homeowners are not able to make the financial decisions that many of us here feel that we would make in the same situation. I believe that Rep. Baker also has the same constituent concerns in his district in Louisiana.

My legislation, H.R. 1551, seeks to improve the NFIP while always focusing on the homeowners who will be at the center of the repetitive loss reduction process. After discussing H.R. 1551, I want to touch on the affect that Tropical Storm Allison had on my hometown of Houston, Texas.

I. **Buyouts:** As in Reps. Bereuter and Blumenauer's bill, my legislation gives primary focus to buying out repetitive loss homes in the floodplain because it is a proven, cost effective, and equitable solution to the vicious flooding and financial cycle that traps many owners of repetitive loss properties. This emphasis on removing repetitive loss properties is the fundamental agreement between our two proposals. In the Subcommittee hearing held on this issue in 1999, former FEMA Director James Lee Witt cited a ratio of $2 in reduced federal disaster assistance for every $1 spent on buying out repetitive loss properties.

   For the $100 million in authorized funding provided in H.R. 1551, $90 million is directed towards buyouts and $10 million towards mitigation activities like elevation. I believe this number may need to be larger. Former Director Witt stated during his tenure that with $300 million he could stabilize the NFIP. I also believe increasing FEMA's line of credit with the Treasury may need to be temporarily increased. If FEMA borrows funds from Treasury to finance repetitive loss buyouts, net benefits could be achieved while reducing demand for scarce discretionary funds.

II. **State/Local:** I drafted H.R. 1551 with the intent of deeply involving state and local governments in the process because this issue is essentially a land use issue where local governments obviously have unique knowledge and authority. H.R. 1551 would require a database of repetitive loss properties constructed by local floodplain managers and FEMA. FEMA has already made a huge step in this direction with the creation of the Special Direct Facility (SDF), a central processing office for the 10,000 targeted repetitive loss properties. My legislation also allows state and local governments to coordinate and execute the repetitive loss buyouts and requires that the acquired property be owned and maintained by the local government or state, not the federal government.

   During the drafting of H.R. 1551 I consulted with Harris County, the third largest county government in the United States, and specifically the Harris County Public Infrastructure Department (HCPID) which includes Harris County Flood Control District (HCFCD). HCFCD is a leader among local government in using buyouts as non-structural flood damage reduction projects. For example, in the Cypress Creek watershed, HCFCD used $4.5 million in flood control funds from the Corps to help fund 35 buyouts rather than construct a more expensive channel project. However, after a 1994 flooding event, HCFCD could not obtain enough funds to buyout all the homes along Sims Bayou in my district that would have been cost-effective. I am confident that many of these homes may have flooded again during T.S. Allison, due to lack of funds in 1994.

III. **Mitigation:** H.R. 1551 provides $10 million in flexible grants to state and local governments for elevation, relocation, demolition, flood proofing, and minor mitigation efforts for structures in the Special Flood Hazard Areas (SFHA). These funds are to be used for feasible, cost-effective projects likely to provide protection and substantially reduce damage claims by NFIP properties. Rep. Bereuter's proposal provides for the extension of current mitigation grants to non-compliant communities which have been excluded.

IV. **The Definition:** Finally, and most importantly, in order to provide the most benefits quickly for our limited buyout dollars, my legislation has a more targeted definition of "repetitive loss" than the Bereuter-Blumenauer approach. Instead of 2 loss without regard to amount of claims as in H.R. 1428, I use a definition of 3 or more losses with cumulative damages equal to 125% of the market value of the structure. In our last hearing on this issue, GAO agreed with me that a focused definition of repetitive loss ensures the more costly repetitive loss properties are addressed first. Certainly, this area has been the subject of much back and forth. I believe we should target scarce buyout funds and not give the federal government undue braod authority to clear the floodplain after two claims, even de minimis ones, which would be far below premiums paid.

Essentially, the definition of repetitive loss is a definition defines homeowners who will be penalized. We all know that houses last a long time and weather is unpredictable. An insurance policy where your premiums go from several hundred to several thousand after two minor claims, regardless of time, location of the floodplain, or ownership, does not sound like much of an insurance policy. I would urge all present to imagine how the value of NFIP homes would be affected should the unconditional two claims proposal become law. A critical point which my bill does not define, as Mr. Bereuter and Mr. Blumenauer do, is the question whether the policy runs to the policy holder or the property. Having the policy run directly to the property could have the effect of decreasing its value and raise disclosure issues under Real Estate Settlement and Precedures Act.

V. **Consequences for refusal:** I also drafted my legislation to include a significant financial incentive to participate in repetitive loss buyouts or mitigation. H.R. 1551 raises premiums by 50% and increasing the deductible by $5,000 for those that refuse an offer of purchase or mitigation. Another difference from the Bereuter legislation is H.R. 1551 directs the revenue from increased premiums into repetitive loss mitigation and buyouts. I respect Reps. Bereuter and Blumenauer's desire to raise folks to actuarial rates, but I hope they will consider raising premiums in steps rather than one quick shock

In summary, I think that Reps. Bereuter, Blumenauer, and I are much in agreement on this issue. However, H.R. 1551 differs from H.R. 1428 on the critical definition of repetitive loss and a few secondary issues. I believe my approach is more targeted and careful because I am very familiar with many of my constituents who are trapped in the repetitive loss cycle since coming to Congress. Furthermore, I believe the engagement of the affected homeowners and their elected representatives at all levels will be critical to reaching a consensus. The most recent devastating flooding event in my district, Tropical Storm Allison, which I will describe shortly, has reinforced my desire to remove repetitive loss structures and their residents from harm's way. When we accomplish this, federal disaster recovery efforts can focus on those properties and families that experience extraordinary calamities, instead of routine cycles of flooding and rebuilding.

That is why I am committed to a focused, cost-effective definition of repetitive loss, the fairness of the eventual buyout offer price, and the availability of mitigation for repetitive loss properties. A targeted definition leads to a policy that is more cost-effective, minimizes the adverse impact on homeowners, especially low and moderate income homeowners, and recognizes the limitations of the federal government.

Witness Testimony Housing Subcommittee
Two Floods and You Are Out of the Taxpayer's Pocket Act
July 19, 2001
Congressman Doug Bereuter

Good Morning. Thank you Madame Chairwoman for having this Subcommittee hearing on the subject of the National Flood Insurance Program (NFIP). In April of this year, Congressman Earl Blumenauer (D-OR) and I reintroduced the "Two Floods and You Are Out of the Taxpayer's Pocket Act (H.R. 1428)." This legislation, which is the same legislation that we introduced in the 106th Congress, represents a continuation of my long-term interest and my past efforts in the House to reduce the extraordinary costs of repetitive losses from the NFIP as administered by Federal Emergency Management Agency (FEMA).

At the outset, I would like to thank Mr. Blumenauer for his dedication and devotion to the principles and details of this legislative effort. I would also note that during the 106th Congress, FEMA, under the direction of Director James Lee Witt, was involved in assisting us in drafting our legislation and was supportive of our legislation. Furthermore, I would also like to extend my appreciation to Congressman Ken Bentsen (D-TX), and Congressman Richard Baker (R-LA), who are also testifying today, for their efforts and concern about the functioning of the NFIP.

If enacted, the "Two Floods and You Are Out of the Taxpayer's Pocket Act" will help turn the tide against the huge costs associated with repetitive loss properties. The policyholders of many of these repetitive loss properties are currently not being charged the actuarially sound rates under the NFIP. This legislation addresses repetitive loss property in a simple, straightforward manner; the owner of a repetitive loss property will be charged the actuarial, risk-based rates for their national flood insurance policy if two conditions are met. First, two or more NFIP claims must have been paid on an individual property which is thereby defined as a repetitive loss property. Second, the policyholder of the property has refused a buyout, elevation, or other flood mitigation measure funded by FEMA.

I support H.R. 1428 for numerous reasons; however, the following reasons are the most significant grounds for my support:

1. Policyholders of repetitive loss properties are able to take advantage of and abuse the NFIP by making claim after claim on the same flood-prone properties;

2. Federal taxpayer money will be saved under H.R. 1428 by reducing the NFIP's unpaid debt to the U.S. Treasury;

3. The Federal Government is encouraging development by giving subsidized flood insurance to these high-risk areas;

4. It is predicted that the United States will experience more hurricanes and other storms in the immediate future decades thereby resulting in an even greater number of repetitive claims; and

5. There is a demographic trend of individuals living closer to United States coastlines which will probably result in a greater number of repetitive loss claims.

Today, I would like to use this opportunity to explain, in greater detail, these five reasons for my support of H.R. 1428. First, I support this legislation due to the widespread abuse among some policyholders of the NFIP who own repetitive loss properties and who are not paying the actuarial rate for their flood insurance. FEMA had identified over 45,000 insured properties nationwide under NFIP which would be categorized as repetitive loss properties (using FEMA's definition of two or more flood insurance losses of $1,000 or more within any ten-year period). Of these 45,000 properties, approximately 10,000 have experienced either four or more flood losses or two to three flood losses that cumulatively exceeded the value of the property. This subset of properties is costing the NFIP over $80 million annually.

Under the NFIP, a regional cross-subsidy is flowing from the policyholders in non-repetitive loss areas of the country to those policyholders in repetitive loss areas of the country. In FEMA's defense, it does not have the congressionally mandated tools to address the costs of repetitive loss. The "Two Floods and You Are Out of the Taxpayer's Pocket Act" will give FEMA the authoritative tools to reduce repetitive loss and to stop this Federal handout and cost-shifting to other NFIP policy-holders.

Second, our legislation, H.R. 1428, will save Federal taxpayers by reducing the NFIP unpaid debt to the U.S. Treasury. Since 1994, FEMA has been forced to borrow over $2 billion from the U.S. Treasury to cover NFIP claims and operating expenses.
I certainly know of no private insurance company that can long stay in business if it disregards good actuarial practices. American taxpayers are paying the costs for those individuals who choose to live in high flood risk areas and who fail to take the prudent mitigation actions. This bill will help to ensure the future solvency of the NFIP and to reduce the need for the NFIP to borrow from the Treasury.

Moreover, this bill will also save substantial taxpayer money in the costs of Federal disaster relief assistance as many properties will be bought out, and removed from Federal disaster-aid prone areas. In addition, H.R. 1428 explicitly provides that many types of Federal disaster relief assistance will not be given to the owners of repetitive loss properties if they refuse to accept mitigation assistance.

Third, my support for this legislation is based on the fact that the NFIP gives subsidized flood insurance to disaster prone areas. The Federal Government is encouraging development in these areas. The question needs to be asked whether rebuilding is merited in repetitive loss high risk areas? I believe in many cases the answer will be "no."

Fourth, I support H.R. 1428 because of a predicted future change in weather patterns. Dr. William Gray, a highly respected Professor of Atmospheric Science at Colorado State University, predicted that over the next few decades the East Coast and Gulf Coast will be subject to more frequent forceful tropical storms, including hurricanes. Due to the number of repetitive loss properties on the coasts, additional hurricanes will result in huge numbers and amounts of additional claims under the NFIP. It is imperative that the NFIP is changed before the eye of yet another hurricane is upon us.

Lastly, the demographic reality is that millions of Americans find themselves living closer to an ocean than ever before. According to the United States Census Bureau, within the next 10 years, 75 percent of the United States population will live within 100 miles of the U.S. coastline. Due to this demographic factor, the time is ripe to change the rate structure of the NFIP now.

In summary, the title of the legislation is "Two Floods and You Are Out of the Taxpayer's Pocket Act." We need to stop treading through the water of repetitive loss after repetitive loss. This legislation is the right thing to do at the right time. I look forward to the other testimony today and to working with the Housing Subcommittee on the reform of the National Flood Insurance Program. Thank you.

Appendix 1: Comparison of Repetitive Loss Property Proposals

	H.R. 1428 Two Floods and You are Out of the Taxpayer's Pocket Act of 2001 (Bereuter and Blumenauer)	H.R. 1551 Repetitive Flood Loss Reduction Act of 2001 (Bentsen)	FY '02 Administration Budget Proposal
Properties Affected by Proposal (Defined as "Repetitive Loss Properties")	Properties for which two or more NFIP claims have been paid	Properties with three or more flood-related damages with a cumulative cost of repairs equal or greater than 125% of the structure's fair market value	Properties with two or more losses of $1000 or greater in a ten-year period
Proposal's Effect on Property Owners	Property owners refusing FEMA mitigation to be charged full actuarial rate for flood insurance	Property owners refusing FEMA mitigation to have insurance premium increased by 150% with an additional $5000 deductible for each subsequent flood insurance claim	Repetitive loss property owners could make one more claim before having their flood insurance policies terminated
Annual Program Funding	$50 million budget appropriation, plus authorization of $70 million transfer from the Nat'l Flood Insurance Fund to the Nat'l Flood Mitigation Fund for mitigation	$100 million budget appropriation for a new "Repetitive Flood Loss Reduction Fund" established within the Treasury	No funding required
Disaster Assistance Available	No disaster assistance for repairing, replacing or restoring repetitive loss properties whose owners refused FEMA mitigation	Does not prohibit disaster assistance for repetitive loss properties	No disaster assistance for repetitive loss properties

EARL BLUMENAUER
THIRD DISTRICT, OREGON

COMMITTEES:
TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEES:
RAILROADS
WATER RESOURCES AND ENVIRONMENT

INTERNATIONAL RELATIONS
SUBCOMMITTEE:
EAST ASIA AND THE PACIFIC

Congress of the United States
House of Representatives
Washington, DC 20515–3703

WASHINGTON OFFICE:
1406 LONGWORTH BUILDING
WASHINGTON, DC 20515–3703
(202) 225-4811
FAX: (202) 225-8941

DISTRICT OFFICE:
THE WEATHERLY BUILDING
516 S.E. MORRISON STREET
SUITE 250
PORTLAND, OR 97214
(503) 231–2300

www.house.gov/blumenauer

Testimony of Congressman Earl Blumenauer

Hearing on the National Flood Insurance Program and The Federal Emergency Management Agency's Repetitive Loss Mitigation Strategy

Subcommittee on Housing and Community Opportunity, Financial Services Committee, Thursday, July 19, 2001

I would like to thank the Chairwoman and Ranking Member for holding today's hearing. The Committee's hearing on this subject during the last Congress was very helpful in highlighting the importance of this issue and the impact of the national flood insurance program on government spending. Since that hearing, the need for re-examining our national flood insurance policy has taken on an even greater urgency due to the alarming increase in flood frequency and damage.

I echo the comments of my colleague from Nebraska, Representative Bereuter and agree with the Bush Administration's position that we should help communities avoid natural disasters. Flooding is a common and persistent problem for the United States. The threat of global warming will likely mean that we will see an increase in the incidence of extreme weather events. Earlier last month, Houston, Texas illustrated the tragic loss of life and property that can result from such incidence.

It seems clear to me that Nature never intended for people to live or work in floodplains, and the federal government shouldn't assist people to do so. Between 1960 and 2000, the federal government spent more than $38 billion in its futile attempt to control flooding in areas that historically have been flood plains or wetlands. Despite that spending, however, flood losses now average about $8 billion per year, six times the average flood losses of the 1950's, before the federal government made its investments. The damage created in North Carolina by Hurricane Floyd in 1999 resulted in almost 70,000 people receiving some form of disaster assistance. According to one FEMA estimate, over $58 million was disbursed for emergency disaster housing and individual and family grants in the state.

In the last 8 years alone, floods have killed more than 850 people, and caused more than $89 billion in property damage, not including some of the most recent losses of life and costly damage caused by Hurricane Floyd and Tropical Storm Allison. Much of this flooding occurred in places where weak zoning laws have allowed developers to drain wetlands and build in floodplains. More often than not, these are places that have been flooded repeatedly since development began.

I have often cited a house in Houston, Texas, as perhaps the most egregious example of this kind of misguided behavior. Valued at only $114,000, it was the subject of 16 claims between 1989 and 1995, for a total of more than $800,000. According to FEMA, there are currently at least 45,520 repetitive loss buildings insured by the National Flood Insurance Program. The National Flood Insurance Program now pays more than $200 million annually to rebuild these repetitive loss properties. Of these 45,000 properties, approximately 10,000 have experienced either four or more flood losses or two to three flood losses that cumulatively exceeded the value of the property. These properties alone cost the program over $80 million annually.

I am proud to be the original co-sponsor of Congressman Bereuter's bill, Two Floods and You're Out of the Taxpayers' Pockets. The purpose of this legislation is to avoid many of the injuries, deaths and damages before they occur, and give property owners the option of moving to a less hazardous area.

It reforms the National Flood Insurance Program to give people a choice. Once an individual has made more than two claims to the National Flood Insurance Program, they may choose to continue to live in a hazardous area, and accept the actuarial, risk-based costs of flood insurance for living there, or they may receive federal aid to move or elevate their property out of harm's way. This Act would never deny national flood insurance coverage to any interested owner, renter, or occupant of a property.

This program will have many benefits. One of the most compelling reasons is the savings to the federal government of millions of dollars in avoided flood damages. But perhaps even more important than avoiding government waste, it will move people out of harm's way and discourage newcomers from moving there. Last month in Houston, a mother was electrocuted trying to save her son, himself also electrocuted, from the rapid flooding caused by Allison. This is not acceptable, and the federal government does no one any good to continue allowing people to live in harm's way.

Additionally, this legislation has important environmental benefits. It will allow nature to resume its natural functions of flood control and water purification in flood plains, saving millions of dollars in avoided water treatment infrastructure. And finally, it will restore wetlands environments, which are host to rich and important ecosystems.

H.R. 1428, Two Floods and You're Out of the Taxpayers' Pocket, is win-win legislation. It preserves and restores the environment, while saving taxpayers and the federal government money. Most importantly, through prevention and providing people with the choice and the means to relocate, we can help to save lives.

Testimony of

Robert F. Shea, Jr.
Acting Administrator
Federal Insurance and Mitigation Administration
Federal Emergency Management Agency

Before the Subcommittee on Housing and Community Opportunity

Committee on Financial Services

United States House of Representatives

Washington, DC

July 19, 2001

I want to begin by thanking the Committee for finding time on a busy legislative calendar to address an issue that is very important not only to FEMA, but more importantly to citizens around the country living in flood-prone areas. The Committee and staff have always been interested and responsive to our work and we appreciate that spirit of cooperation.

We also want to recognize the creativity, hard work, and, especially, the persistence of Representatives Bereuter and Bentsen and Blumenauer and other Members who have long been involved in this issue and have devoted so much staff and personal time and resources to learn the intricacies of the problem and have sought to find workable solutions.

The problem of properties that are damaged repeatedly by flooding and yet are repaired or rebuilt in the same unsafe locations is one that has cost the program millions of dollars over the years and has had tragic consequences for individuals, families, and businesses caught up in the cycle of repetitive flooding. Ironically, the financial impact of repetitive losses on the NFIP is an inevitable result of the very structure of the NFIP as originally designed. Let me explain.

The NFIP is premised on an agreement of sorts that the Federal government makes with local communities. The terms of the agreement call for communities to adopt and enforce building and development standards in their high-risk flood plains. These standards will ensure that new structures built in these communities are better protected against the peril of flooding than much of the development that had previously taken place over the years with no recognition of the flood hazard.

In exchange for this commitment from communities, the government agrees to make flood insurance, which the private insurance sector does not provide, available to all property owners in these communities, no matter where they are located and how serious their risk. Furthermore, the government agrees to provide this insurance to high-risk properties built before NFIP standards were in place, i.e., pre-FIRM properties, for a premium that does not fully reflect the true risk to which these properties are exposed. The FIRM is the Flood Insurance Rate Map, which delineates the boundaries of a community's special flood hazard areas. While we refer to the premium charged these older properties as "subsidized," the program receives no infusion of funds from any source to offset this premium shortfall. Repetitive loss properties are, for the most part a subset of these pre-FIRM, "subsidized" properties. Let me put them into context.

At the moment, there are 4.26 million NFIP policies in force, approximately 27%, or 1.2 million, of which are pre-FIRM policies that are subsidized. Of this number, approximately 45,000 properties have experienced repetitive losses, meaning that they have had at least two flood losses exceeding $1,000 within a ten-year period. Combine this number of currently insured properties with about

46,000 others that are no longer insured by the program, and we see that only 91,000 properties, or 15% of the properties that have had any loss at all, have accounted for over $3.8 billion, or 38%, of our losses over the years.

The original program design contemplated the absorption of heavy losses from a certain number of high-risk properties as an acceptable cost of securing the commitment from local communities to regulate new construction. That commitment has paid off. We estimate that the enforcement of NFIP building standards results in about $1 billion in annual reduced damage caused by flooding.

At the same time, we can improve the financial condition of the NFIP by identifying properties that are costing the program a disproportionate level of losses and help the owners of these properties to either move out of the flood plain entirely or at least take steps to make their homes and businesses safer. By doing so, we provide these chronic victims of flooding long-term emotional and financial relief.

To that end, we have identified approximately 10,000 of the most vulnerable of these 45,000 insured repetitive loss properties, and targeted them for mitigation that could include buying them out, elevating them, or some other appropriate action that will reduce their risk. This subset of properties includes those that have had four or more flood losses or two or three losses that cumulatively exceed the value of the building. There are a few properties on our list that have been flooded over 20 times in 20 years, an average of more than once a year. The situation surrounding these properties is critical not only for the homeowners who live in these susceptible areas but also for the NFIP, which cannot sustain this level of claims activity. The NFIP has paid out over $800 million in claims for these 10,000 properties over the last 21 years. If adjusted for today's dollars, that figure would exceed $1.3 billion.

Having identified these properties, our primary strategy is to buy out or otherwise mitigate them. Since most of the buildings on our target list were built before communities knew which areas have the highest flood risk and before building codes for these areas adequately reflected the probabilities of flooding, such as building elevation standards, in any given year some of these buildings will be flooded again. When this happens, the owners of the insured properties from this list will again file claims for flood insurance, totaling an average of $80 million a year. And this will happen every year unless we do something to reduce the hazard of repeat flooding.

We have already begun to use existing programs, to the extent we can, to concentrate on these properties. We are authorized to spend $20 million a year under the Flood Mitigation Assistance Program (FMA) on mitigation activities and our Regional Offices have directed the states to give priority to these target properties for the use of FMA funds. The same kind of priority has been assigned to the funds made available under the Hazard Mitigation Grant Program

(HMGP). We believe this kind of targeting of funds can be very effective in addressing this problem, because we have already had a high degree of success in reducing flood losses in similar circumstances all over the country.

Since 1989, FEMA and our State partners have approved the acquisition, relocation, or elevation of over 29,000 properties using FEMA mitigation funds under HMGP, FMA, and Hurricane Floyd and Unmet Needs Supplemental funding. Not only have these projects saved untold human suffering, but experience has shown us that these mitigation measures are also cost-effective. To date, 47 States, the District of Columbia, and Puerto Rico have used this funding for buyout and elevation projects.

A few examples will illustrate the effectiveness of these programs.

In Arnold, Missouri, after the 1993 Midwest floods, approximately 250 structures were severely affected by the high waters, despite over 60 sandbag sites, and 528 households applied for Federal disaster assistance, which amounted to over $2 million apart from flood insurance claims. After this event, the city implemented an acquisition program, based on the city's previously developed floodplain management plan, using HMGP funds. In 1995, the city was again flooded, but the damage was much less severe. As the Arnold City Manager indicated, "Most of the areas affected had been bought out, so the people weren't there." Only three or four sandbag sites were needed in 1995, and only 26 households applied for Federal disaster assistance for a total of $40,000.

In the aftermath of the 1994 flood in Geneva, Alabama, local officials developed what could be considered a model hazard mitigation project. They began an aggressive campaign to convince homeowners in the flood-prone Baptist Bottoms area to sell their homes and relocate out of the floodplain. The community submitted a grant application to FEMA and 30 structures were acquired and removed before the subsequent flood in March 1998.

When the 1998 flood hit, the areas lying outside the town's protective levee were flooded. The Choctawhatchee and Pea rivers both peaked at over 35 feet- approximately 13 feet above flood stage. However, due in part to the mitigation measures FEMA carried out after the last flood, Geneva suffered far less property damage than in 1994. The buyout of the 30 homes proved to be an effective investment in Geneva. FEMA's benefit cost analysis software determined that for an upfront cost of approximately $672,000 to acquire and remove flood-prone properties, over $1.4 million in damages and losses were avoided. All of the acquired structures lay deep in the floodplain, and would have been flooded had they remained in the flood risk zone. If the Baptist Bottoms area had been redeveloped after the 1994 floods, many houses would have been severely damaged or destroyed in the floods of March 1998.

In 1994, Tropical Storm Alberto devastated central and southwestern Georgia. The river community of Newton, located next to the Flint River, was among the hardest hit by floods from the storm. Newton is a small rural town with a population of less than one thousand. The downtown area was under 12 feet of water for several days, and flood depths in some areas were as high as 20 feet. Over 150 homes and businesses were flooded. According to some local estimates, damages came to $4.5 million. After the 1994 flood, Newton pursued a mitigation project with FEMA to fund the acquisition and demolition of 20 residential and 19 commercial structures. All but one business moved out of the floodplain.

As a result, many people were spared from the flooding that hit the town in 1998. In the March 1998 flood, the Flint River peaked at 37 feet- 17 feet above flood stage. In some areas of Newton, floodwaters rose as high as nine feet. The buyout of the 39 structures in 1994 proved to be an effective investment in Newton. FEMA's benefit-cost analysis software determined that for an upfront cost of approximately $750,000 to acquire flood-prone properties, nearly $2 million in damages and losses were avoided. The figures for avoided damages in 1998 apply to those structures that were deep enough in the floodplain to have been flooded had they remained in the flood-risk zone.

There are examples similar to these all over the country. In the same way that we have been able to alleviate the plight of flood-stricken families and businesses in these cases, we believe we can provide assistance to the owners of these target repetitive loss properties that will be of benefit to the owners and the government alike.

FEMA is currently providing states with insurance data for their repetitive loss properties to help them identify candidates for projects under the Hazard Mitigation Grant Program. We anticipate that the HMGP funds that will be available as a result of the damage caused by Tropical Storm Allison can have an impact on this target group. Of the 10,000 target repetitive loss properties, 1,267 are in Texas. Most of these are in the counties affected by the flooding from Allison. The State is working closely with FEMA to implement an accelerated acquisition program. In Friendswood, for example, the State has submitted an application for 200 properties. Of those 200 hundred properties, 122 are repetitive loss properties, and almost 20% of them are on the repetitive loss "target list".

In general, States are very receptive to targeting repetitive loss properties, especially when armed with lists of such properties. However, it should also be noted that State and local governments also have other issues associated with buyouts that they must grapple with, such as contiguous properties that also make sense to buy out but which may not include a repetitively-damaged building. Clearly, targeted resources, as called for in your legislation, make sense.

In the case of funds that are invested in these targeted repetitive loss properties, we estimate that the costs associated with buying or otherwise mitigating a property will be recouped in seven to nine years. To the extent that funds are made available specifically for repetitive loss properties, it would be particularly effective if they can be made available in a way that provides the program with a maximum amount of flexibility as how we are able to target the funds.

A factor to be considered in offering assistance to the owners of these target properties --- whether they choose to move out of the flood plain or to improve their properties ---- is how to treat those who refuse such an offer. Most people living in these high-risk areas are looking for help to alleviate their plight. However, there will be those who, for various reasons, are reluctant to move. This approach to addressing repetitive loss properties will receive public acceptance only if it is voluntary, and it will be important to provide an insurance consequence to the decision not to accept an offer of assistance. Alternatives proposed have included denying further insurance coverage, requiring that full actuarial rates be paid for future coverage, and substantially increasing deductibles to have those who refuse to move shoulder a greater portion of their cost of recovery. It is our belief that shifting more of the financial burden to the property owner is a more effective incentive than the denial of insurance.

In addition to the offer of financial assistance to property owners, FEMA will also be incorporating repetitive loss data into the five-year update process for NFIP flood hazard maps to help identify areas for study and re-mapping. Furthermore, the NFIP Community Rating System (CRS) credits have been increased for acquisition, relocation, and retrofitting of flood-prone properties with bonuses added for repetitive loss buildings.

The various pieces of legislation under discussion today take several different paths to reach the same laudable goals; helping some homeowners out of a difficult predicament while preventing anyone from taking inappropriate advantage of the flood insurance program. And through all of these approaches we create safer communities.

The Administration's budget proposal for FY2002 seeks to recognize the importance of this issue and its relevance to public and fiscal policy. The Administration proposal in the budget is similar to the legislation under discussion today in its intent to reduce subsidized flood insurance on repetitively flooded properties while building safer communities. While there is, as yet, no Administration position on the legislation being considered today, we do applaud the analysis that has resulted in the bills as well as the concern for homeowners and the NFIP program that is their basis. In that regard, we believe it to be very important to take into account the special circumstances of low-income homeowners and devise equitable solutions that will not aggravate other problems confronting them. FEMA has worked with all sponsors in providing information and staff advice in the development of the legislation and will continue to do so.

We regard the challenge of identifying and providing remedies to these especially vulnerable properties as an indication of the long-term success of the NFIP. The program has paid over $10 billion in losses since its inception in 1968 at a total cost of only $1.2 billion to the taxpayer, an amount appropriated prior to 1986 that can reasonably be regarded as program capitalization. Even if a significant portion of program losses have been paid to a small number of problem properties, the benefits that the program has derived from local enforcement of safer building standards has made that investment in local communities worthwhile. And the combination of identifying and treating the worst of the existing properties with preventing the construction of new buildings in such unsafe locations will inevitably improve the financial well-being and stability of both the citizens of this country and the National Flood Insurance Program.

In accordance with the National Flood Insurance Act of 1968, FEMA can only provide flood insurance in a community if that community participates in the NFIP and adopts and enforces floodplain management regulations that meet or exceed minimum requirements that have been established by FEMA. Over 19,000 communities participate in the NFIP and have adopted compliant regulations. Communities can either adopt a floodplain management ordinance or include the requirements in their zoning and subdivision ordinances and building codes. FEMA monitors enforcement by communities of their floodplain management regulations and can place on probation or suspend communities that do not comply.

Communities must require that all residential buildings be elevated above the elevation of the 1 percent chance flood (also known as the 100-year flood). Non-residential buildings must either be elevated or floodproofed (made watertight) to that elevation. Along rivers and streams development is prohibited in the floodway. The floodway includes the channel of the river or stream and that part of the adjacent floodplain that must be left open to carry floodwaters. In coastal areas that are subject to storm surge and wave impacts buildings must be elevated on pilings and meet other special construction requirements. Older buildings that are substantially damaged (damaged to over 50 percent of their market value) must meet the same standards as new buildings. FEMA provides extensive technical guidance on how to meet these requirements.

NFIP minimum requirements have proven to be effective in reducing flood damages. Our flood insurance claims information indicates that buildings built to FEMA standards incur 80 percent less in flood damages than the average building that was built prior to the community's participation in the NFIP. We have estimated that NFIP building requirements prevent over $1 billion in flood damage annually. These new buildings pay actuarial rates for flood insurance that fully reflect the buildings' risk of flooding. Even though the rates for these new buildings are fully actuarial, they are usually less than the subsidized rates charged for the older buildings that were built prior to the NFIP.

FEMA encourages communities to undertake comprehensive planning and adopt land use measures that go beyond NFIP minimum requirements, and actively promotes the use of smart growth strategies to limit development in floodplains. However, there are practical constraints in implementing these strategies in all NFIP communities. First, adoption of these strategies is dependent on state zoning and planning enabling legislation that may limit use of some or all of the strategies in a particular state or community. Second, implementing these strategies generally requires a level of planning expertise and resources not available to the majority of NFIP communities. Finally, these efforts are of necessity locally driven and are often undertaken for reasons unrelated to floodplain management. FEMA believes that its role is to support and encourage communities in undertaking these strategies. Efforts to date include:

Community Rating System (CRS)-The CRS provides discounts on flood insurance premiums of up to 40% in those communities that that have floodplain management programs that go beyond the minimums required to participate in the NFIP. Credits are currently provided in the CRS for preserving open space, low-density zoning, and other more restrictive requirements. Beginning in 2002, CRS will provide credits to communities that adopt land development criteria that either limit development in the floodplain or provide incentives to developers to limit floodplain development.

Guidance Developed Jointly with the American Planning Association (APA)-FEMA and the American Planning Association (APA) jointly developed a publication entitled *Subdivision Design in Flood Hazard Areas* that encourages use of these innovative planning tools to limit development in the floodplain. This document was published in 1997 as part of APA's Planning Advisory Service series in an effort to reach out to the planning community. FEMA and APA also produced a guide to post-disaster mitigation planning that addresses many of the same issues. FEMA participated in and provided financial support to HUD's *Growing Smart* initiative, working with APA to develop a natural hazards element for a local comprehensive or general plan.

Planning Initiatives-FEMA has undertaken a number of other initiatives to encourage communities to incorporate natural hazards into their comprehensive and land use planning. Our new Planning Branch was created to encourage better planning by states and communities. Several publications on "sustainability" have been published and a series of "how-to" manuals on natural hazards planning is being developed. Planning grants are being provided to communities for floodplain planning under the Flood Mitigation Assistance Program. Finally, FEMA expects to encourage state and community planning through the new pre-disaster mitigation provisions the of Disaster Mitigation Act of 2000.

United States General Accounting Office

GAO

Before the Subcommittee on Housing and Community Opportunity, Committee on Financial Services, House of Representatives

For Release on Delivery
Expected at 10:00 a.m.
Thursday
July 19, 2001

FLOOD INSURANCE

Information on the Financial Condition of the National Flood Insurance Program

Statement of Stanley J. Czerwinski
Director, Physical Infrastructure Issues

GAO
Accountability * Integrity * Reliability

GAO-01-992T

Madam Chairwoman and Members of the Subcommittee:

We are here today to discuss the financial condition of the National Flood Insurance Program administered by the Federal Emergency Management Agency's (FEMA) Federal Insurance and Mitigation Administration (Administration). The program, along with low-interest loans provided by the Small Business Administration and individual and family grants provided by FEMA, is a major component of the federal government's efforts to provide flood-related disaster assistance. Floods have been, and continue to be, the most destructive natural hazard in terms of economic loss to the nation, according to FEMA. From fiscal years 1969 through 2000, the program paid about $10 billion in insurance claims, primarily from premiums collected from program policyholders. The recent floods in the Midwest, Louisiana, Texas, and West Virginia have again demonstrated the destructive nature of this hazard to the nation.

Prior to the flood insurance program's inception in 1968, flood insurance was generally not available from private insurance companies. The National Flood Insurance Act of 1968 (P.L. 90-448) established the program to identify flood-prone areas, make flood insurance available to property owners living in communities that joined the program, encourage floodplain management efforts to mitigate flood hazards, and reduce federal expenditures for disaster assistance. As you know Madam Chairwoman, we last provided testimony to this Subcommittee on this issue on October 27, 1999.[1]

Our statement today will provide information on (1) the financial results of the program's operations since fiscal year 1993, (2) the actuarial soundness of the program, and (3) the impact of repetitive losses (multiple loss properties) and FEMA's strategies for reducing those losses.

The following summarizes our work:

- While the magnitude of flood damage varies considerably from year to year, the program has operated "in the black" during the last 2 fiscal years following a period of sustained losses to the program from severe flooding. In March 1994, we reported that, while sufficient to cover flood losses experienced at that time, overall income from the program's

[1] *Flood Insurance: Information on Financial Aspects of the National Flood Insurance Program* (GAO/T-RCED-00-23, Oct. 27, 1999).

premiums was not sufficient to build reserves to meet future expected flood losses.[2] Therefore, we concluded that it was inevitable that losses from claims and the program's expenses would exceed the funds available to the program in some years. During the 8-year period from fiscal years 1993 through 2000, the program experienced losses from floods that were greater than the premiums collected from policyholders. Cumulative operating losses to the program (program income less program costs) totaled about $843 million during this 8-year period. During the first 6 years of that period, cumulative operating losses totaled about $1.56 billion and required FEMA to borrow from the U.S. Treasury to help finance these losses. During fiscal years 1999 and 2000, however, program revenues exceeded program costs by about $720 million, enabling the Administration to repay the funds it had borrowed from the U.S. Treasury to finance the program's earlier losses.

- The program is not actuarially sound because it does not collect sufficient premium income to build reserves to meet the long-term future expected flood losses.[3] The program, by design, is not actuarially sound because the Congress authorized subsidized insurance rates to be made available for policies covering certain structures to encourage communities to join the program. Because about 30 percent of the policies were subsidized as of 2000, overall premium income is not sufficient to build reserves to meet future expected flood losses. The Administration's annual target for the program's overall premium income is at least the amount of losses and expenses in an average historical loss year, which approximates the average annual losses experienced under the program since 1978. Since no catastrophic loss years have occurred since 1978,[4] collecting premiums that are based on an average historical loss year does not enable the program to build sufficient reserves to cover a possible catastrophic loss year in the future. Because the program does not collect sufficient premium income to build reserves to meet the long-term future expected flood losses, including catastrophic losses, it is inevitable that losses from claims and the program's expenses will exceed the funds available to the program in some years and, cumulatively, over time.

[2]See *Flood Insurance: Financial Resources May Not Be Sufficient to Meet Future Expected Losses* (GAO/RCED-94-80, Mar. 21, 1994).

[3]For the program to be actuarially sound, overall revenues from insurance premiums would need to be sufficient to cover expected losses from claims and the program's expenses.

[4]Administration officials told us that a catastrophic year is defined as a year resulting in $5.5 billion to $6 billion in claims losses, which has a 1 in 1,000 chance of occurring.

- Repetitive loss properties have a major disproportionate impact on the National Flood Insurance Program, according to FEMA. The cost of multiple-loss properties (two or more losses greater than $1,000 each on the same property within a 10-year period) to the program is large—about 38 percent of all claims paid historically, currently about $200 million annually. In a recent report on the Government Performance and Results Act, we identified improving the financial condition of the flood insurance program as a major management challenge and reported on FEMA's strategy for addressing this challenge, including reducing losses from multiple loss properties.[5] In its fiscal year 2002 Performance Plan and budget proposal, FEMA, among other things, has under way or is planning actions aimed at (1) identifying a target group of properties suffering multiple losses and transferring them to a special servicing facility for better oversight and coordination of insurance and mitigation actions; (2) developing a proposal to reduce the subsidy provided to older repetitive loss properties; (3) terminating flood insurance coverage for the worst offending repetitive loss properties; and (4) eliminating subsidies for vacation homes, rental properties, and other nonprimary properties that experience repetitive losses.

Before I discuss these issues in greater detail, let me briefly explain the National Flood Insurance Program and other federal disaster assistance related to this program.

The National Flood Insurance Program and Other Flood-Related Assistance

About 19,600 communities have joined the flood insurance program. Under the program, flood insurance rate maps (FIRM) were prepared to identify special flood hazard areas. In order for a community to join the program, any structures built within a special flood hazard area after the FIRM was completed were required to be built according to the program's building standards that are aimed at minimizing flood losses. Special flood hazard areas, also known as the 100-year floodplains, are areas subject to a 1-percent or greater chance of experiencing flooding in a given year. A key component of the program's building standards, that must be followed by communities participating in the program, is a requirement that the lowest floor of the structure be elevated to or above the base flood level—the elevation at which there is a 1-percent chance of flooding in a given year.

[5] *Federal Emergency Management Agency: Status of Achieving Key Outcomes and Addressing Major Management Challenges* (GAO-01-832, July 9, 2001).

To encourage communities to join the program, thereby promoting floodplain management and the widespread purchasing of flood insurance, the Congress authorized FEMA to make subsidized flood insurance rates available to owners of structures built before a community's FIRM was prepared. These pre-FIRM structures are generally more flood-prone than later built structures because they were not built according to the program's building standards. Owners of post-FIRM structures pay actuarial rates for national flood insurance. The average annual premium for a subsidized policy is currently $610, and the average annual premium for an actuarial policy is currently $310. The higher average premium for a subsidized policy reflects the significantly greater risk of flood-prone pre-FIRM properties. The $610 average annual premium for a subsidized policy represents about 38 percent of the true risk premium for these properties.

From 1968 until the adoption of the Flood Disaster Protection Act of 1973, the purchase of flood insurance was voluntary. The 1973 act required the mandatory purchase of flood insurance to cover structures in special flood hazard areas of communities participating in the program if (1) any federal loans or grants were used to acquire or build the structures and (2) the loans were secured by improved properties and were made by lending institutions regulated by the federal government. The owners of properties with no mortgages or properties with mortgages held by unregulated lenders were not, and still are not, required to buy flood insurance, even if the properties are in special flood hazard areas.

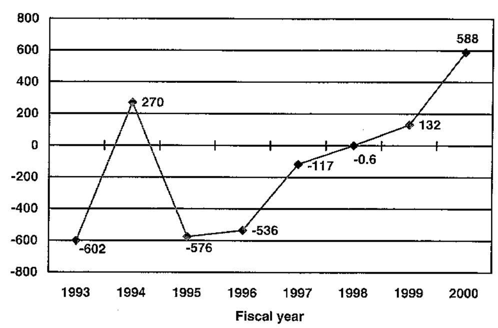
The National Flood Insurance Reform Act of 1994 reinforces the objective of using insurance as the preferred mechanism for disaster assistance by (1) expanding the role of federal agency lenders and regulators to enforce the mandatory flood insurance purchase requirements and (2) prohibiting further flood disaster assistance for any property where flood insurance is not maintained, even though flood insurance was mandated as a condition for receiving earlier disaster assistance. Regarding the prohibition on further flood disaster assistance, the act requires borrowers who have received certain disaster assistance and then failed to obtain flood coverage to be barred from receiving future disaster aid.

Other forms of flood disaster assistance include low-interest loans from the Small Business Administration to flood victims who are creditworthy. In addition, a flood victim who cannot obtain a Small Business Administration loan may apply for an individual and family FEMA grant of up to $14,400 or the amount of the loss, whichever is less.

Severe Flooding Has Sometimes Resulted in Sustained Losses to the Program

Annual operating losses or net revenues from the National Flood Insurance Program's operations have varied significantly from year to year. While revenues exceeded program costs in some years, cumulative program costs exceeded income by about $843 million during the period October 1, 1992, through September 30, 2000. As seen in Figure 1, during the 8-year period from fiscal years 1993 through 2000, the program incurred operating losses in 5 of these years and experienced net income in the 3 remaining years.

Figure 1: Net Financial Status of the National Flood Insurance Program (Annual Income Minus Costs)



Source: National Flood Insurance Program Operating Results by Fiscal Year

During fiscal years 1993 through 1998, the first 6 years of the 8-year period, the flood insurance program generally experienced operating losses.[6] This occurred because losses from flood claims were greater than premium income collected from the program's policyholders. The program's annual

[6]Program income primarily consists of premium revenues paid by policyholders, but also includes investments, fees, and other revenues. Program costs primarily consist of claims and related expenses, but also include, among other things, operating and interest costs.

losses during this period ranged from about $600,000 in fiscal year 1998 to $602 million in fiscal year 1993. Cumulative operating losses experienced by the program totaled about $1.56 billion during the 6-year period. To help finance these losses, the Administration borrowed from the U.S. Treasury during the 6-year period.[7] According to FEMA, as of August 31, 1999, the debt owed by the program to the U.S. Treasury totaled $541 million.[8]

Since fiscal year 1995, losses experienced by the program annually have gradually declined, and in fiscal years 1999 and 2000 program revenues exceeded program costs by a total of about $720 million. As a result, the Administration was able to repay its debt owed the U.S. Treasury, and, as of June 30, 2001, the program owes no debt to the U.S. Treasury.[9]

The financial improvement experienced by the program since fiscal year 1995 was primarily due to three reasons. First, claims and related expenses declined.[10] Second, the number of policyholders covered by the program increased about 31 percent from 3.3 million policies in force in fiscal year 1995 to 4.3 million policies in force by fiscal year 2000. Accordingly, earned premium revenue on these policies increased during the period. Third, according to Administration officials, the proportion of generally more flood-prone pre-FIRM subsidized policies insured by the program has declined, resulting in a less risky portfolio of policies in force. The percentage of program policies that are subsidized has declined over time as newer properties have joined the program and are charged actuarial rates. While 41 percent of the 2.7 million policies in force in fiscal

[7]The Congress authorized the Administration to borrow up to $1 billion from the U.S. Treasury, if necessary, to pay claims losses. Legislation enacted in 1996 provided a 1-year increase in borrowing authority to $1.5 billion, later extended through 2001. No appropriations have been made to the program since fiscal year 1986.

[8]According to an Administration official, debt owed by the Administration to the U.S. Treasury is not equivalent to the program's cumulative losses because the amount of borrowing needed depends on (1) the relative timing of payments on the program's current obligations and expected monthly premium receipts and (2) future insurance claims.

[9]Administration officials noted that, beginning in fiscal year 1986, the Congress required all program and administrative costs to be paid for by the program without a commensurate rate increase. In 1991, the Congress authorized the Administration to charge policyholders a federal policy fee to pay for these costs. Administration officials estimate the current value of the resulting loss of funds and investment income to be about $436 million, making the program more vulnerable to the need for exercising its borrowing authority.

[10]The magnitude of flood damage can vary considerably from year to year.

year 1993 were subsidized, 30 percent of the 4.3 million policies in force in fiscal year 2000 were subsidized, according to an Administration official.

While the program incurred operating losses during the 8-year period, it should be recognized that the value of the program in reducing federal expenditures on disaster assistance should not be measured by net federal expenditures alone. For example, the Administration estimated that the program's standards for new construction are now saving about $1 billion annually in flood damage avoided. Also, from October 1, 1968, through September 30, 2000, the program paid about $10 billion in insurance claims, primarily from policyholder premiums that otherwise would, to some extent, have increased taxpayer-funded disaster relief.

The Program Is Not, by Design, Actuarially Sound

The program is not actuarially sound because about 30 percent of the 4.3 million policies in force are subsidized, according to an Administration official. For a single-family pre-FIRM property, subsidized rates are available for the first $35,000 of coverage, although any insurance coverage above that amount must be purchased at actuarial rates. Administration officials estimated that total premium income from subsidized policyholders is currently about $500 million less than it would be if these rates had been actuarially based and participation had remained the same.

Pre-FIRM structures that are within an identified 100-year floodplain and are covered by subsidized policies are, on average, not as elevated as the post-FIRM structures in comparison with the base flood level. Administration officials told us that, on average, pre-FIRM structures not built to the program's standards are three and a half to four times more likely to suffer a flood loss. When these structures suffer a loss, the damage sustained is, on average, about 40 percent greater than the damage to flooded post-FIRM structures. According to the Administration, when these two factors are combined, pre-FIRM structures suffer, on average, about five times more damage than post-FIRM structures.

Premium Income Is Not Sufficient to Build Reserves for Potential Catastrophic Losses

As an alternative to actuarial soundness, the Administration developed a financial goal for the program to collect sufficient revenues to at least meet the expected losses and expenses of the average historical loss year, as well as to cover all non-loss-related program expenses, such as the program's administration. However, the average historical loss year is based only on the program's experiences since 1978. Since then, no catastrophic year ($5.5 billion to $6 billion in claims losses) has occurred, and many years in the 1980s were characterized by fairly low actual loss levels as compared to the historical average losses experienced in other years. Therefore, the historical average loss year involves fewer losses from claims than the expected annual claims losses in future years. As a result, collecting premiums to meet the historical average loss year does not realize the collections necessary to build reserves for potential catastrophic years in the future.

For the program to be actuarially sound, its rate-setting process would have to consider the monetary risk exposure of the program or the dollar value of expected flood losses over the long run. Since the magnitude of flood damage varies considerably from year to year, income from premiums in many years would exceed actual losses. This circumstance would enable the program to build reserves toward a possible catastrophic year in the future.

Increasing Premiums for Subsidized Policies or Expanding Participation in the Program Might Have Adverse Financial Impacts

As we reported in March 1994, increasing the premiums charged to subsidized policyholders (thereby decreasing the subsidy) to improve the program's financial health could have an adverse impact on other federal disaster-related relief costs. Increasing the rates of subsidized policyholders would likely cause some policyholders to cancel their flood insurance, and, if flooded in the future, these people might apply for Small Business Administration loans or FEMA disaster assistance grants.

Because they were built before the program's building standards became applicable, pre-FIRM structures are generally not as elevated as post-FIRM structures, and, if their owners were to be charged true actuarial rates, these rates would be much higher than current subsidized rates.[11] For example, if the subsidy on pre-FIRM structures were eliminated, insurance rates on currently subsidized policies would need to rise, on average, approximately a little more than twofold, according to an Administration official. This increase would result in an annual average premium of about $1,300 for these pre-FIRM structures. Significant rate increases for

[11] Also, Administration officials told us that making all rates actuarially based would not make the program actuarially sound. They noted that an initial capitalization would be necessary to establish some reserves in the event that a catastrophic year were to occur before sufficient reserves had accumulated from income from premiums.

subsidized policies, including charging actuarial rates, would likely cause some pre-FIRM property owners to cancel their flood insurance.[12]

If owners of pre-FIRM structures, which suffer the greatest flood loss, canceled their insurance policies, the federal government would likely face increased costs, as the result of future floods, in the form of low-interest loans from the Small Business Administration or grants from FEMA. The effect on total federal disaster assistance costs of phasing out subsidized rates would depend on the number of the program's current policyholders who would cancel their policies. Thus, it is difficult to estimate if the increased costs of other federal disaster relief programs would be less than, or more than, the cost of the program's current subsidy.

On the other hand, expanding participation in the program by increasing the rate of compliance with the mandatory purchase requirement, or by extending the mandatory purchase requirement to property owners not now covered, will likely increase the number of both subsidized and unsubsidized policies. Although greater participation in the program is likely to reduce the cost of FEMA grants and Small Business Administration loans, the resulting increase in subsidized policyholders will put greater financial stress on the flood insurance program, because the premiums received from subsidized policyholders are not sufficient to meet the future estimated losses on these policies.

FEMA Has Developed Strategies To Reduce The Impact of Repetitive Flood Losses

Repetitive loss properties have a major disproportionate impact on the National Flood Insurance Program, according to FEMA's fiscal year 2000 performance report. About 38 percent of all program claims historically (currently about $200 million annually) represent repetitive losses, even though repetitive-loss structures make up a small percentage of all program policies. About 45,000 buildings currently insured under the program have been flooded on more than one occasion and have received flood insurance claims payments of $1,000 or more for each loss. Over the years, the total cost of these multiple-loss properties to the program has been about $3.8 billion.

[12]The National Flood Insurance Reform Act of 1994 expanded the mandatory flood insurance purchase requirement on properties that are located in special flood hazard areas and financed with any federal loan or grant or loans made by lending institutions regulated by the federal government.

A 1998 study by the National Wildlife Federation noted that repetitive loss properties represent only 2 percent of all properties insured by the program, but they tend to have damage claims that exceed the value of the house and most are concentrated in special flood hazard areas. For example, nearly one out of every ten repetitive loss homes has had cumulative flood loss claims that exceeded the value of the house. Furthermore, over half of all nationwide repetitive loss property insurance payments have been made in Louisiana and Texas. About 15 states account for 90 percent of the total payments made for repetitive loss properties.

We, as well as FEMA's Office of Inspector General, have identified improving the financial condition of the National Flood Insurance Program as one of FEMA's major management challenges. In our July report on FEMA's performance under the Government Performance and Results Act, we outlined FEMA's accomplishments and plans to reduce the losses it sustains from repetitive loss properties. Among other things, FEMA has under way actions or plans aimed at (1) identifying target repetitive loss properties and transferring their servicing to a special servicing facility designed to better oversee claims and coordinate and facilitate insurance and mitigation actions and (2) developing and implementing proposals to reduce the subsidy provided to pre-FIRM repetitive loss properties.

In fiscal year 2000, FEMA implemented a repetitive loss initiative to target the 10,000 worst repetitive loss properties, those currently insured properties that had four or more losses, or two to three losses where the cumulative flood insurance claims payments exceeded the building's value. According to FEMA, the initiative is designed to eliminate or short-circuit the cycle of flooding and rebuilding for properties suffering multiple losses due to flooding. The initiative includes identifying repetitive loss properties and transferring their insurance policies to a central, special servicing facility designed to better oversee claims. FEMA believes that this special servicing will help coordinate insurance activities and mitigation grant programs. FEMA reported that it had identified repetitive loss properties and would make this information available to state and local governments to help them target repetitive loss properties for mitigation actions. FEMA also reported that it planned to mitigate 1,938 target properties over the next 4 years.

In addition, in its fiscal year 2002 annual performance plan, FEMA outlined several strategies to reduce the subsidy provided to repetitive loss properties as well as several business improvement process actions to reduce the program's costs. FEMA stated it would use Flood Mitigation

Assistance funds and Hazard Mitigation Grants Program funds in conjunction with flood insurance program funds to acquire properties, relocate residents, or otherwise mitigate future losses. FEMA also plans to provide incentives to communities to reduce repetitive flood losses.

In its fiscal year 2002 budget proposal, FEMA requested to transfer $20 million in fees from the National Flood Insurance Program to increase the number of buyouts of properties that suffer repetitive losses. This proposal also includes a proposal for two major reforms to the flood insurance program. FEMA proposes to terminate flood insurance coverage for the worst offending repetitive loss properties. FEMA also proposes to eliminate subsidized premiums for vacation homes, rental properties, and other nonprimary properties that experienced repetitive losses. FEMA estimates these two reforms will generate savings of about $12 million in fiscal year 2002 and additional funds in subsequent years.

In closing, Madam Chairwoman, the Administration is helping the nation avoid the costs of flood damage through the premiums it collects from, and the claim payments it makes to, program policyholders as well as the building standards it has promoted for new construction that minimize flood damage. However, at times, heavy flooding has produced annual flood insurance losses that exceeded the premiums collected from policyholders. As a result, the program has had to borrow funds from the U.S. Treasury to cover its operating losses, which it subsequently repaid. Two major factors underlie these financial difficulties—the program, by design, is not actuarially sound and it experiences repetitive losses. These factors are not easy to overcome because they have been an integral part of the program since its inception, and they are related to the promotion of floodplain management and widespread purchasing of flood insurance.

Madam Chairwoman, this completes our prepared statement. We would be happy to respond to any questions that you or Members of the Subcommittee might have.

Contact and Acknowledgments

For further information on this testimony, please contact Mr. Stanley Czerwinski at (202) 512-2834. Mark Abraham, Martha Chow, Kerry Hawranek, Signora May, Lisa Moore, and Robert Procaccini made key contributions to this testimony.

Related GAO Products

Federal Emergency Management Agency: Status of Achieving Key Outcomes and Addressing Major Management Challenges (GAO-01-832, July 9, 2001).

Flood Insurance: Emerging Opportunity to Better Measure Certain Results of the National Flood Insurance Program (GAO-01-736T, May 16, 2001).

Disaster Assistance: Issues Related to the Development of FEMA's Insurance Requirements (GAO/GGD/OGC-00-62, Feb. 25, 2000).

Flood Insurance: Information on Financial Aspects of the National Flood Insurance Program (GAO/T-RCED-00-23, Oct. 27, 1999).

Flood Insurance: Information on Financial Aspects of the National Flood Insurance Program (GAO/T-RCED-99-280, Aug. 25, 1999).

Disaster Assistance: Opportunities to Improve Cost-Effectiveness Determinations for Mitigation Grants (GAO/RCED-99-236, Aug. 4, 1999).

Disaster Assistance: FEMA Can Improve Its Cost-Effectiveness Determinations for Mitigation Grants (GAO/T-RCED-99-274, Aug. 4, 1999).

Disaster Assistance: Improvements Needed in Determining Eligibility for Public Assistance (GAO/RCED-96-113, May 23, 1996).

Flood Insurance: Financial Resources May Not Be Sufficient to Meet Future Expected Losses (GAO/RCED-94-80, Mar. 21, 1994).

Ordering Information

The first copy of each GAO report is free. Additional copies of reports are $2 each. A check or money order should be made out to the Superintendent of Documents. VISA and MasterCard credit cards are also accepted.

Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:
U.S. General Accounting Office
P.O. Box 37050
Washington, DC 20013

Orders by visiting:
Room 1100
700 4th St., NW (corner of 4th and G Sts. NW)
Washington, DC 20013

Orders by phone:
(202) 512-6000
fax: (202) 512-6061
TDD (202) 512-2537

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (202) 512-6000 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

Orders by Internet
For information on how to access GAO reports on the Internet, send an e-mail message with "info" in the body to:

Info@www.gao.gov

or visit GAO's World Wide Web home page at:

http://www.gao.gov

To Report Fraud, Waste, and Abuse in Federal Programs

Contact one:

- Web site: http://www.gao.gov/fraudnet/fraudnet.htm
- E-mail: fraudnet@gao.gov
- 1-800-424-5454 (automated answering system)

PRINTED ON RECYCLED PAPER

ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.
2809 Fish Hatchery Road, Suite 204 Madison, Wisconsin 53713 608-274-0123
Fax: 608-274-0696 Website: www.floods.org Email: asfpm@floods.org

Association of State Floodplain Managers, Inc.

before the
Subcommittee on Housing and Community Opportunity
House Committee on Financial Services

on

Repetitive Loss Strategy for the NFIP H.R. 1428 and H.R. 1551

presented by
Rebecca Quinn, ASFPM Legislative Officer
Former Maryland NFIP State Coordinator

July 19, 2001

'Dedicated to reducing flood losses in the nation.'

INTRODUCTION

The Association of State Floodplain Managers, Inc., and its 14 Chapters represent over 4,500 state and local officials, including other professionals who are engaged in all aspects of floodplain management and hazard mitigation. All 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 programs and working to achieve effectiveness in meeting our shared objectives. Many of our members are designated by their governors to coordinate the National Flood Insurance Program.

In 1988, ASFPM began encouraging Congress to incorporate a mitigation program into the NFIP. The National Flood Insurance Reform Act of 1994 addressed many needs, including the program set forth in Sec. 1366, the Flood Mitigation Assistance Program (FMA). It was deliberately authorized to help focus on actions that are in the best interest of the NFIP. In large measure these actions were defined as the repetitive loss problem. We are pleased to be invited to offer our views on the proposals set forth in H.R. 1428 and H.R. 1551. Our comments on other issues identified by the Subcommittee on Housing and Community Opportunity are located at the end.

PUTTING REPETITIVE LOSSES IN CONTEXT

It is important to put the repetitive loss problem in context. While the exact number is not known, it is estimated that 9 to 11 million buildings are in the areas we call special flood hazard areas that are shown on FEMA's Flood Insurance Rate Maps. Over 4 million buildings both in and out of the floodplain are insured today (up from only 2 million 8 years ago). Of those, about 60,000 are on FEMA's list of repetitively flooded properties. About 10,000 have experienced four or more losses, or two or more losses which combine to exceed the building's value as reported on the flood insurance policy. This means that initially we are focusing attention on about one-quarter of one percent of the insured buildings. But the impact is huge, since that small fraction accounts for on the order of 40% of the NFIP's losses since 1978.

We have all seen or heard of the homes that have been characterized in a way that implies the owners are "abusing" federal flood insurance. While there may be a number of egregious offenders, for the most part the repetitive loss business owners and homeowners can hardly be thought of as taking advantage of the program. If your family or someone you know has been flooded, even if only 6" above the carpet, then you understand the personal and economic impact that results. Plus, flood insurance does not cover all costs, given the deductible and list of items that are excluded from coverage.

GENERAL COMMENTS ON REPETITIVE LOSS STRATEGIES

Any strategy to address the repetitive loss problem should consider the following:

1. The strategy should be viewed as <u>a cost containment initiative for the NFIP</u> that will

benefit every current and future policy holder. It makes sense for the policy holders as a whole to invest in cost effective measures that will, in short order, reduce the pressure to raise the rates. In recent years, the cost of insurance has gone up close to 10% each year. For the average policy, that's on the order of $50 a year. If that trend can be changed, then every policy holder will benefit. We can think of it this way: a program to mitigate less than 1 percent of the insured properties could save 4 million people over $160 million dollars in premiums each year.

2. The strategy should address cost effective projects that are in the best interest of the National Flood Insurance Program, to the extent that it is funded by the NFIP policy holders. This focus will guide implementation by FEMA and states, resulting in prioritizing projects that deal with properties that have sustained high value claims. It is important to realize that even properties that flood nearly every other year are unlikely to be cost effective to mitigate if the dollar values of those claims are low. In such cases, the best protection for property owner is to continue federal flood insurance to provide financial protection, thus keeping the losses off of the general taxpayer.

3. Another long-term benefit of a repetitive loss strategy is that, without a doubt, it will reduce federal disaster assistance, although it may take a number of years to see the effects. When the pressure to raise the rates is reduced, more people will see that flood insurance is a "good buy" if the cost comes more in line with their perceived risk. Having everyone buy flood insurance is the single most effective way to reduce that part of the federal disaster dollar that supports uninsured individuals, families, and businesses after the President declares a flood disaster. For flood-related disasters declared between 1989 and 1998, FEMA paid over $3 billion for Individual and Family Grants (does not include SBA and other agencies, or the effects of the casualty loss deduction on tax income). Because it will ultimately save tax dollars, ASFPM believes it is appropriate for a repetitive loss strategy to authorize new general funds to support a repetitive loss initiative.

4. Existing insurance-based mechanisms need to be used effectively. NFIP flood insurance coverage includes what is known as "increased cost of compliance (ICC)." Authorized in 1994, this additional claim payment is made when severe or repetitive flood damage meets certain qualifying criteria and if the local floodplain management ordinance requires the owner to repair the building to become compliant with the code. Currently, ICC pays a maximum of $20,000, less than half what it costs to elevate the average house. In addition to increasing the payment amount, ASFPM believes that now is the time for FEMA to exercise the authority granted in Section 1304(c) to allow the Director to focus this funding for the best interests of the National Flood Insurance Program and Fund. Offering funding through this insurance mechanism after the next flood damage to the top 4-6,000 repetitive loss buildings would surely fulfill that test. It is important, however, that owners not be penalized if it is determined that there are no feasible and cost-effective mitigation measures for specific buildings. On the other hand, an owner's refusal

to accept funding for a feasible and cost-effective measure should result in imposing actuarial rates.

5. While FEMA has determined that non-residential buildings make up a significant portion of the small group that has had multiple losses that appear to exceed the value of the building, many of the nation's repetitive loss areas are occupied by low income homeowners and renters. Often the low-income occupant simply does not have the financial ability to move elsewhere or to pay for mitigation measures. It is far too simplistic to assume that every owner is able to make a rational choice based on cost alone, as many of them don't have the money to begin with. In those instances where grants or offers are made to low-income homeowners and renters, we are concerned that it be done in a carefully crafted manner that networks with existing housing programs. Experience shows this networking is vital to making mitigation work in low-income communities. We suggest that the Subcommittee ask FEMA to report on and demonstrate how offers will be made in a manner that encourages participation.

6. Canceling flood insurance on certain repetitive loss properties is a short-sighted solution. ASFPM has serious concerns with the proposal in the Administration's Budget Blueprint to terminate flood insurance after one more claim for certain repetitive claimants. Experience indicates it is more productive to have a one-time cost-shared mitigation offer to foster mitigation, with the consequence for declining an offer being increasing premiums to actuarial rates. The primary reason we support the proactive approach is that, contrary to a popular view that repetitive claims are largely from coastal areas, many of the repetitive loss properties are in lower income areas, often in older neighborhoods in communities built along rivers. To expose policyholders in these areas, who have been paying premiums, to loss of their insurance seems unwise because those buildings will remain exposed to flooding. It appears doubtful that removing repetitive loss properties from the pool of insured buildings will save taxpayer dollars in the long term, because after the next flood, it will be difficult for Congress to withhold taxpayer-funded disaster assistance.

SPECIFIC COMMENTS ON H.R. 1428

While the Association of State Floodplain Managers applauds the objectives of both H.R. 1428 and H.R. 1551, we find that H.R. 1428 offers a more practical starting point.

1. Sec. 2. Flood Loss Reduction for Repetitive Flood Insurance Claim Properties

H.R. 1428 could so tightly focus the Flood Mitigation Assistance program on very specific and individual repetitive loss properties that it may have the unintended consequence of inhibiting sound planning and good, comprehensive projects. Certainly communities should address repetitive loss areas in their mitigation plans, but they should also look comprehensively at all of their flood-prone areas.

As the additional funding authorized by H.R. 1428 becomes available, ASFPM understands the need to allow the Director to waive the dollar and time limitations that are in the current FMA authorization. This would provide FEMA the authority to attack the repetitive loss problem in an expeditious manner to yield the greatest benefit in the shortest time. The $20 million/year currently allocated to this program provides minimal support for planning and project implementation in all states. ASFPM recommends that this baseline program be continued without change so that communities in all states have the opportunity to partner in flood mitigation projects.

2. Sec. 3. National Flood Mitigation Fund

ASFPM endorses the focus on repetitive loss problems. However, we would request that the new funding be used for projects that primarily address repetitive loss properties, rather than exclusively for those properties. Community projects, especially acquisitions (buyouts) that lead to compatible reuse and utilization of vacated land, rarely involve only insured properties. We request that the Subcommittee retain the current FMA program and allow it to continue without changing how it is administered. Every State now receives some funding for planning, technical assistance, and project grants. The list of eligible activities is broader than only repetitive losses, yet all funded projects must still be in the best interest of the NFIP.

It is very important that the amount of funding available to support mitigation planning be increased along with the increase in funds for projects. FMA requires a community to have a plan as a condition of receiving a grant. Often, it is during the planning process that a community examines options that help define the project, such as whether to acquire the land and develop public open space, or elevate-in-place and accept the continued costs associated with evacuation, utility service, and damaged roads. ASFPM recommends that H.R. 1428 specifically authorize a portion of the added funds for planning, in the amount of at least $5 million annually.

ASFPM supports the additional funding that would be focused on repetitive losses, and believes that current and future policy holders will benefit as the pressure to raise the rates is reduced. We would be concerned about the immediate reaction of many policy holders if the amounts authorized for this program are added to the policy service fee. ASFPM believes the long-term benefits that will accrue to the federal taxpayers (see first section) justify the infusion of general funds to support a focused repetitive loss initiative.

3. Sec. 5. Chargeable Premium Rates

ASFPM supports charging actuarial rates if a mitigation offer is refused, as long as the property owner is fully informed and fully understands the consequences of refusing an offer, and as long as the offer is for a reasonable, feasible, and cost effective measure. Those are important caveats. An owner should not be penalized if the only measure that will protect the home is extremely costly and if the owner (especially the low income owner) is required to bear a large share of the costs. ASFPM believes there are some people for whom the best mitigation is the financial protection provided by flood insurance – and we believe this is important protection to keep more people from burdening the federal treasury through disaster assistance, low-interest disaster loans, and losses in tax income when the casualty loss deduction is taken by uninsured taxpayers who have experienced flood damage. If, however, flood insurance coverage is dropped due to the increase to actuarial rates after refusal of a reasonable mitigation offer, there should be no eligibility for disaster assistance.

ASFPM endorses charging full actuarial rates for privately owned or leased buildings on federal lands. Several of our State members report that large numbers of repetitive loss properties are located on federal lands. However, to be effective, the provision in H.R. 1428 must apply to all floodplains on federal lands, not simply those on the water side of flood control works such as a levee.

Private buildings on federal land sometimes are built, replaced, repaired, and improved without regard to the heart of the NFIP: the *quid pro quo* that communities regulate development in floodplains in return for federal flood insurance. State and local building codes and land use ordinances do not apply to federal lands, although some federal landowner agencies do try to apply the same construction criteria. In addition, it is highly questionable whether a community could apply grant funds to mitigate a building on federal lands. This prompts the suggestion that FEMA be allowed to work with the owning federal agencies to implement mitigation measures. However, as long as there are no regulations governing these buildings, ASFPM believes that it is inappropriate for the rest of the policy holders and taxpayers to continue to financially subsidize them. In addition to charging actuarial rates on private buildings on federal lands, we urge the Subcommittee to request that all federal agencies that lease lands for private occupancy report on whether flood hazards are addressed in the leases and whether they have rules that control what can be built and how it is built. The report may best be achieved through Executive Order 11988 regarding federal investment and activities in flood hazard areas.

4. Sec. 7. Mitigation Grants for Repetitive Claim Properties

ASFPM has always endorsed community-based mitigation plans and projects. However, we recognize that not every community will have the interest or ability to implement projects. The success of a program that is intended primarily for cost containment should not be hampered due to lack of a viable partnership with some communities. Therefore, in concept we support giving FEMA the authority to deal with property owners after determining that the community is unable to participate. We caution that doing so may discourage community planning and participation if communities believe that FEMA will address the problem without their support. Experience with a FEMA acquisition program previously authorized under Section 1362, was burdened by several problems, not the least of which was that FEMA took title to lands which were then transferred fee simple to communities. ASFPM does not feel that this is a most viable alternative, and urges reconsideration of any provision in H.R. 1428 or H.R. 1551 that would involve federal ownership of land, no matter how briefly. We suggest that a change to Sec. 1366(k), which defines recipients of FMA grants, would be effective. A beneficial modification would allow non-profit, non-governmental organizations to receive and manage grants provided they have compatible missions, such as community development and housing organizations or land trusts and environmental/recreational organizations.

5. Sec. 9. Definition of Repetitive Claim Property

Operationally, FEMA has at least two definitions for repetitive loss properties. This has led to confusion in the past. It is unclear why another definition is required as long as the purpose of the additional funding is to focus on properties that have flooded on multiple occasions and for which mitigation measures are reasonable, feasible and in the best interest of the NFIP.

COMMENTS ON H.R. 1551

H.R. 1551 offers a more limited framework within which to mitigate flood losses. In particular, it does not allow consideration of options based on a community's circumstances, the nature of the floodplain, or the specific conditions of the building and/or property owner. While acquisition is, in many areas, an excellent solution, it is not the only measure that reduces future flood damage. Elevation-in-place can be used effectively, and non-residential building can be modified to become floodproofed.

1. Fair Market Value: H.R. 1551 directs that FEMA may offer up to 125% of fair market value for acquisition. ASFPM has two comments on this proposal: (a) while we understand the need to help low-moderate income families to buy safe housing outside of the floodplain, we do not believe that an arbitrary mandated increase in the purchase price is appropriate. Communities can choose to use CDBG funds to provide replacement housing payments when they document a differential in housing costs. These funds also help pay for moving expenses, and a structure for their use is already in place; and (b) Communities involved with flood mitigation acquisition projects already report that speculators sometimes move in quickly after a severe flood when they hear a buyout is proposed. They buy homes below value from desperate owners who may not fully understand that a buyout will provide them pre-flood fair market value, or owners who have no other housing available to them and cannot wait for a mitigation project. The provision in H.R. 1551 will induce inappropriate actions by speculators, and add to the administrative burden of FEMA, States, and communities that have to try to weed out this problem.

2. A new grant program will overly burden state and local mitigation efforts. The NFIP Reform Act of 1994 authorized the Flood Mitigation Assistance Program, including a small grant program. It is unnecessary to create yet another grant program when the current program is already used to focus on repetitive losses. It is notable that only 10% of the proposed funding would support the proposed new grant program, while 90% would be used for direct federal acquisition of property.

ADDITIONAL COMMENTS REQUESTED BY THE SUBCOMMITTEE:

1. Effectiveness of the National Flood Insurance Program. The members of the Association of State Floodplain Managers, Inc., work every day with communities and property owners to regulate floodplains consistent with the provisions of the NFIP. While the effectiveness is largely a function of the maps (see below) and compliance by builders, we firmly believe the NFIP has saved the nation untold dollars and anguish as new homes and businesses are not subject to the same risk as they would have been without the program. In addition, in many states and communities, floodplains are managed in a comprehensive manner that also recognizes their natural and beneficial functions. FEMA has initiated a comprehensive evaluation of the NFIP, the first in the program's 30-year history.

2. The Flood Mitigation Assistance Program (FMA) is an effective program, although somewhat hampered by the limited funding that is distributed to all states, sometimes in quantities that are nearly impracticable to focus effectively on any particular repetitive loss problem. FMA funds clearly are to be used for projects that are cost effective and "in the best interest of the National Flood Insurance Fund." A very important element of FMA is the funding for planning and technical assistance, which fosters local planning.

3. Can mitigation of repetitive loss properties be accomplished under existing authorities if some modifications are made? We believe that the provisions in H.R. 1428, especially the addition of new funds, combined with improved effective use of Increased Cost of Compliance would effectively deal with the drain on the National Flood Insurance Fund caused by repetitive loss claims. Suggestions for other modifications are contained in previous comments.

4. Flood hazard maps are a critical component of effective mitigation. The best mitigation is to "build it right the first time." To achieve this, communities need flood hazard maps that reflect current conditions. Good maps also are important in developing mitigation projects, in particular elevation-in-place, which depends on knowing the elevation of the base flood. Therefore, the Association believes is it critical that the maps are updated to reflect good data, and modernized to use current technology. A significant percentage of the maps of record that must be used by communities to regulate development are 15-30 years old. FEMA's map modernization program will address this serious problem.

Funding at a level of $100 million/year for 7 years would be required according to FEMA's estimates. Currently, most funding is derived from the policy service fee assessed on every flood insurance policy. However, due to the many uses and beneficiaries of good maps and good floodplain management, we urge support for increased funding and the addition of general funds.

Please direct questions to Larry Larson, Executive Director at (608) 274-0123 or Rebecca Quinn, Legislative Officer at (410) 349-2326.

REALTOR®
NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

700 Eleventh Street, NW
Washington, DC 20001-4507
202.383.1194 fax 202.383.7580
nar.realtor.com/gov

Richard Mendenhall, President
Terrence M. McDermott, Executive Vice President

GOVERNMENT AFFAIRS
Lee L. Verstandig, Senior Vice President
Jerry Giovaniello, Vice President
Walter J. Witek, Jr., Vice President

STATEMENT OF

TIM RICHARDS
THE RICHARDS AGENCY
OCEAN CITY, NEW JERSEY

REPRESENTING THE

THE NATIONAL ASSOCIATION OF REALTORS®

BEFORE THE HOUSE FINANCIAL SERVICES COMMITTEE
HOUSING AND COMMUNITY OPPORTUNITY
SUBCOMMITTEE

ON

H.R. 1428, THE TWO FLOODS AND YOU ARE OUT OF THE TAXPAYERS POCKET ACT

AND

H.R. 1551, THE REPETITIVE FLOOD LOSS REDUCTION ACT

JULY 19, 2001

Thank you for the opportunity to present the views of the NATIONAL ASSOCIATION OF REALTORS® (NAR) on H.R. 1428, The Two Strikes and You Are Out Of The Taxpayers Pocket Act, and H.R. 1551, the Repetitive Flood Loss Reduction Act.

I am Tim Richards, a REALTOR® from Ocean City, New Jersey. I own a full service residential real estate company, and I have been a real estate professional for many years.

I wish to thank Chairman Marge Roukema for holding a hearing on an issue that is of great concern to REALTORS®. I would also like to thank Representatives Doug Bereuter, Earl Blumenaeur, and Ken Bentsen for introducing legislation that would reform the nation's current repetitive loss policy.

It is often said - and I agree - that REALTORS® don't sell homes, we sell communities. The 760,00 members of the NATIONAL ASSOCIATION OF REALTORS® are concerned and active members of our communities. When a flood strikes, our members are on the frontlines to help our neighbors put their lives back together.

Realtors care about flood insurance issues for a number of reasons: for Realtors who sell houses in a floodplain, the cost of flood insurance is a critical part of the transaction. For low or middle-income purchasers, it may even determine whether or not they can purchase the home. For repetitive loss properties, Realtors have a keen interest in having the appropriate information on the flood losses for disclosure purposes, making sure that flood insurance is accessible for those properties, and keeping the costs of the premium as low as possible.

I would like to briefly discuss three issues with you today: first, the importance of the National Flood Insurance Program in protecting our homes and communities; second, NAR's perspectives on the concept of repetitive loss; and finally, the issue that ties many of these other matters together – the floodplain maps developed by the Federal Emergency Management Agency (FEMA) and how to update and modernize them.

The National Flood Insurance Program (NFIP), currently operated by FEMA, partners with 19,000 communities nationwide, holds 4 million policies and provides approximately $5 billion in property loss coverage. In my home state of New Jersey, some 546 communities partner with FEMA, and there are over 175,000 policies in force that provide over $239 million in property loss coverage. As Realtors, we benefit from this program because it allows people to buy homes that are safe from flooding through flood mitigation activities taken by the participating community, and further protects that investment by providing access to affordable flood insurance that would otherwise be unavailable on the open market. The strength of the National Flood Insurance Program in my state has allowed many people, of all incomes, to own a piece of the American dream.

Unfortunately, owning a home in a floodplain can sometimes become a nightmare. This occurs when a property is subject to multiple floods and must dip into the National Flood Insurance Program more than once. Currently, 43,000 properties nationwide have incurred two or more losses over a ten year period. These 43,000 properties cost the flood insurance program over $200 million annually. The top 10,000 structures alone cost the program over $65 million annually.

In New Jersey, over 5,000 properties are considered repetitive loss properties, with total payments of over $174 million. These multiple loss properties inflict serious economic harm to the flood insurance program by driving up the premiums for all other policy holders, and by allowing the entire system to rest upon an unsustainable actuarial foundation. These properties are not paying a premium that adequately reflects the risk they incur by residing in a floodplain.

NAR believes that the repetitive loss issue must be resolved, and the flood insurance program be placed on firmer financial ground. However, we do not agree with the Administration's proposal to terminate flood insurance coverage for repetitive loss properties. By terminating a property's participation in the flood insurance program, it would be difficult for the owner to find affordable flood insurance on the open market. This draconian measure would result in a significant decrease in the value of the property and wipe out any previous investment the owner may have made in the property.

NAR supports an approach to the repetitive loss issue that has three components: (1) the property is kept in the NFIP with access to flood insurance; (2) flood mitigation measures or a buy-out at fair market value is offered to the worst repetitive loss properties; and (3) if both the buy-out or the offer of mitigation is refused, the owner will be required to pay the highest premiums allowable. This win-win approach allows the owner to stay in the property, while paying a premium that reflects the risk of living in a floodplain. This approach will also reduce federal disaster assistance over the long term, by getting the worst repetitive loss properties either properly mitigated or bought out by FEMA.

A comprehensive reform of the current repetitive loss policy must also reflect three additional issues that are of importance to Realtors: First, some properties may experience repetitive losses as a result of upstream or downstream development that occurred after the properties were constructed. Some exceptions should be made for floods that were caused due to development activities. Second, once a buy-out has been completed, NAR has concerns about the use and ownership of the acquired floodplain property. We would encourage flexibility in determining how these properties are used and maintained, so that they do not become eyesores in the community and decrease the value of adjacent properties. Finally, NAR would encourage the use of local appraisers and others who have knowledge of the local real estate market in determining fair market value for buy-outs.

In addition to FEMA's proposal on the repetitive loss issue, NAR also has concerns regarding their proposal to increase flood insurance premiums on second homes and vacation homes. We would be troubled if these homes were denied access to flood insurance as well.

The last issue I wanted to discuss is the issue of FEMA's Flood Insurance Rate Maps, the well-known and much maligned "floodplain maps". Accurate floodplain maps are crucial during a real estate transaction in determining whether or not a property is in a floodplain, which in turn determines whether or not the owner will require flood insurance. NAR is concerned that sufficient budgetary resources are not being identified for FEMA to improve these maps, although we were pleased with the recent action of the House Appropriations Committee to provide FEMA with an additional $50 million to improve the maps. NAR supports full funding for modernization of the nation's flood hazard mapping program.

Thank you for allowing the NATIONAL ASSOCIATION OF REALTORS® to comment on these critical flood insurance and repetitive loss challenges. We encourage the members of this Subcommittee to fashion a workable, bi-partisan approach to resolving these issues, and stand ready to work with you to get a law passed that would financially strengthen the National Flood Insurance Program, and further protect our citizens from the ravages of flooding.

STATEMENT OF THE INDEPENDENT INSURANCE AGENTS OF AMERICA,

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

COMMITTEE ON FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

July 19, 2001

Good morning Chairperson Roukema and Members of the Subcommittee. My name is Fletcher Willey and I am pleased to have the opportunity to give you the views of the Independent Insurance Agents of America (IIAA) on the National Flood Insurance Program ("NFIP" or the "Program"). I am a member of the Government Affairs Committee of the IIAA and Chair its Flood Insurance Task Force. IIAA is the nation's oldest and largest national trade association of independent insurance agents, and represents a network of more than 300,000 agents and agency employees nationwide. IIAA members are small businesses that offer customers a choice of policies from a variety of insurance companies. Independent agents offer all lines of insurance – property, casualty, life, health, employee benefit plans and retirement products.

Introduction

Let me begin by stating clearly that IIAA supports the NFIP. NFIP provides an important service to people and places that have been hit by a natural disaster. The private insurance industry has been, and continues to be, almost entirely unwilling to underwrite flood insurance because of the catastrophic nature of these disasters. Therefore, NFIP is virtually the only way for people to protect against the loss of their home or business. Prior to the introduction of the Program in 1968, the Federal Government spent increasing sums of money on disaster assistance to flood victims. Since then, NFIP has saved disaster assistance money and provided a more reliable system of payments for people whose properties have suffered flood damage. We want the Program to continue and we hope it will get stronger.

Our members -- independent insurance agents -- play a vital role in the delivery system for flood insurance. The NFIP has about three and one-half million policies in force with over $370 billion in coverage. The majority of these policies are sold by the more than 110,000 insurance agents participating in NFIP's "Write Your Own" program. This system operates well and does not need revision.

IIAA has not yet taken a position on the bills that are the subject of today's hearing. It is clear, however, that reforms of the Program are necessary to address operating losses and make the NFIP actuarially sound. The General Accounting Office has reported that cumulative operating losses of the Program totaled $1.56 billion from 1993 through 1998. The premium structure is not sufficient to allow the Program to build up reserves to cover long-term expected losses. According to GAO, multiple loss properties (defined as those with two or more losses over $1,000 each in a 10-year period) account for about $200 million in claims per year and about 36% of all claims paid on a historical basis.

What I would like to do this morning is explain the five principles that IIAA believes must animate any NFIP reform efforts to both improve the Program and avoid any unintended negative effects of reform:

- Strengthen NFIP building regulations
- Increase compliance with the mandatory purchase requirement
- Provide additional resources for flood loss mitigation efforts
- Stop abuse of the Program through multiple claims
- Require mandatory disclosures of flood information

While we support the NFIP, we recognize that there is need for reform to make the program actuarially sound. We hope that we will be able to work with the Subcommittee as you evaluate the different proposals for reform to meet the fiscal goals of the Program with the least amount of disruption to people's lives as possible. Our members have significant experience with the NFIP and with the people who will be directly affected by reform -- flood insurance policyholders. In fact, this is not just a professional matter for me; I live on Roanoke Island, which is in a flood plain in North Carolina, and have flood insurance so I have some degree of personal experience and personal investment in this issue.

1. Strengthen NFIP Building Regulations

The first principle that IIAA believes should be part of any reform of the NFIP is strengthened NFIP building regulations. The building regulations help communities better manage their floodplains in two ways. First, the regulations require communities to ensure that any new construction in floodplains includes safeguards against flood damage such as building new homes above the flood elevation on pilings. Second, the regulations require that any substantial improvements made to existing buildings in the floodplain incorporate safeguards similar to those required for new construction.

Experience with the Program demonstrates that the building regulations work. The majority of flood losses are caused by damage to older homes. In fact, only four percent of repetitive loss properties were built after 1974. In 1999, the Federal Insurance Administration estimated that the Program's construction standards were saving $1 billion per year. Structures that are built to the Program's standards are three and one-half to four times less likely to suffer flood losses. In addition, the damages to structures built to these standards are 40% less per claim than the damages to older structures.

In light of this success, building requirements should be tightened to ensure that properties are built to minimize potential flood damage and to discourage unwise construction in flood plains.

2. Increase Compliance with the Mandatory Purchase Requirement

NFIP would receive additional premiums and improve its financial condition if there were a better rate of compliance with the mandatory flood insurance purchase requirement. In 1973, the purchase of flood insurance became mandatory for any property in a floodplain having a one percent or greater chance of flood occurrence in a given year. The purchase requirement takes effect when a loan is made, increased, extended or renewed on the property. The Federal Emergency Management Agency ("FEMA") has found that fewer than twenty five percent of buildings in areas covered by the mandatory purchase requirement are actually covered by flood insurance. And compliance rates vary dramatically. Based on past disasters, coverage has ranged from less than ten percent to seventy five percent of eligible properties. Sanctions for and enforcement of the mandatory purchase requirement need to be improved so that the Program can collect additional premium to help balance its books, and fund the payment of future losses with a reduced likelihood of having to borrow from the federal treasury.

3. NFIP Should Have Additional Resources for Mitigation

NFIP should take action to prevent future losses. There are two basic ways to do this. The first is through buying the homes and businesses of property owners in the most flood-prone areas so that those individuals can move out of the floodplain. The second is through providing grant funds to owners of existing properties so that they can make improvements (such as raising their structures) that decrease the risk of flood loss. These preventative measures will decrease the number of repetitive claims and save the Program money.

Repetitive loss properties are clearly a drain on the financial resources of the NFIP. In fact, one-quarter of one percent of the properties in the Program are responsible for 10 percent of the losses. Multiple loss properties account for $200 million per year in claims. As of 1999, GAO reported that the cost of multiple claims had reached $2 billion over the life of the NFIP. GAO also noted that about 40,000 properties that had made multiple claims were still insured by the Program. This can be accomplished through grants to buy-out property owners or modify structures to come into compliance with NFIP standards.

I can tell you many stories about the need for mitigation funds. I myself have been able to avoid flood losses because my home is elevated so I know from first-hand experience that mitigation efforts can work. The Athletic Director of my local high school, however, also lives in the floodplain -- about one-half of a mile from me. His home has been hit by flooding repeatedly -- 5 times since 1987. The losses have pushed him to the point of bankruptcy. He would like nothing better than to get the money to elevate his home or sell, but the Program does not have the funds to help him. Examples like this exist in virtually every community that has been hit by floods.

Buy-outs allow residents to relocate outside the floodplain and prevent future losses. Of course, we must be sensitive to the needs of residents when using buy-outs. Many residents bought their homes before we had full information about the floodplains. The value of many of these homes also may not be sufficient to allow homeowners to relocate to a comparable home. We should avoid creating a new problem by pushing residents out of their homes without sufficient resources to relocate.

As long as the Program is sensitive to the potential dangers, buy-outs can be beneficial tools to improve the financial state of the NFIP. Former FEMA Director James Lee Witt has estimated that there will be a $2 return on every $1 spent on buy-outs of repetitive loss properties. That is an impressive return on investment that we should maximize by putting more money into the Program for buy-outs. Past efforts have proved that mitigation works. Damage to towns along the Mississippi River following the 1993 floods were huge -- $67 million in Wisconsin, $251 million in Iowa and $253 million in Illinois. This year's flood carried about as much water in some areas as in 1993, but, according to the Washington Post, preliminary damage estimates in those three States is only $30 million total. Overall damage from the 1993 flood was more than $10 billion, but this year it is expected to be less than 5 percent of that. While some of those savings are attributable to differences in the floods, a lot of it is because people and towns were bought out and moved.

NFIP also should have additional resources for structural modification of properties to prevent losses. Many residents do not want to move and should not be forced to do so. Experience with the NFIP building standards has shown that many owners can elevate their homes or businesses and effectively reduce flood risks. In some cases, modifying the current property is less expensive and equally (or almost as) effective as a buy-out. And this option can help preserve communities to the fullest extent possible. NFIP needs the authority and resources to help property owners improve their properties before the Program suffers additional losses.

4. Stop Abuse of the Program Through Multiple Claims

We need to do more to stop the abuses of the Program. Some individuals have bought in flood zones in order to take advantage of repeat payments from the NFIP. While the people in this category are a small minority of all property owners, they are an expensive minority. There must be some mechanism to either remove these individuals from the Program or make them pay the full, unsubsidized premium based on sound actuarial standards. This type of approach would be similar to the limitations put on the crop insurance Program in which farmers who file numerous, repetitive claims again are put in a special "high risk, non-classified" system with increased rates and less than full guarantees. Simply reducing abuse of the system will be an important boost to the financial soundness of NFIP.

We also need to recognize that not all repeat claimants are abusing the system. The majority of these people are the victims of natural disasters and bought their homes or businesses without any desire at all to make a claim for flood damage. These are difficult events in people's lives and they should not be punished for them. Many bought without full knowledge of the flood risk to their property and many more do not have the resources to elevate their properties or move. And many of these individuals cannot sell their homes for a reasonable price because they have suffered repeat flood damage -- these folks are stuck in the Program through no fault of their own. They need to be given mitigation options to enable them to escape this nightmarish cycle.

5. Require Mandatory Disclosures of Flood Information

One of the best ways to avoid future problems with the NFIP is to give people information about flood risks. As I said before, many people originally bought their properties without knowledge of the risk of flood. Reform of the NFIP needs to include mandatory disclosures of the flood history of the property so that buyers can make an informed choice in their purchases and they can properly value the home. To make mandatory disclosure effective, we should create an accessible electronic database of flood losses. Disclosure of flood information will help ensure that when a tragedy strikes in the future NFIP does not have to pay for an artificially overvalued property. The disclosure also should bring more people into the Program by giving them the information about their risks.

* * *

Thank you for giving me the opportunity to express IIAA's views. We look forward to working with the Subcommittee on this issue and I will be happy to take any questions you may have for me.

STATEMENT OF DAVID R. CONRAD

WATER RESOURCES SPECIALIST

NATIONAL WILDLIFE FEDERATION

FOR HEARING ON

H.R. 1428 "TWO FLOODS AND YOU ARE OUT OF THE TAXPAYERS' POCKET ACT OF 2001"

AND

H.R. 1551 "REPETITIVE FLOOD LOSS REDUCTION ACT OF 2001"

AND

THE NATIONAL FLOOD INSURANCE PROGRAM

BEFORE THE

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

OF THE

HOUSE COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

JULY 19, 2001

Good morning, Madam Chairman and Members of the Subcommittee. My name is David Conrad. I am Water Resources Specialist for the National Wildlife Federation, the nation's largest conservation education organization, with over 4.2 million members and supporters and affiliates in 46 states and territories. I greatly appreciate the opportunity to present the views of the Federation on H.R. 1428 the "Two Floods and You Are Out of the Taxpayers' Pocket Act of 2001" and H.R.1551 the "Repetitive Flood Loss Reduction Act of 2001". The National Wildlife Federation and our affiliates have a long history of interest and involvement with the programs of the Federal Emergency Management Agency and, particularly, the National Flood Insurance Program (NFIP).

Once again, we wish to especially thank Representatives Bereuter, Blumenauer, and Bentson for continuing their efforts to focus the nation's attention on repetitive loss problems and for introducing these bills to address them. Similar bills were introduced in the 106th Congress, and we believe the need to enact repetitive loss legislation is even stronger and clearer now than it was two years ago. While both H.R. 1428 and H.R. 1551 are similar in the approaches they take to addressing repetitive flood losses and we strongly agree with the basic objectives and thrust of both bills, the National Wildlife Federation particularly wishes to emphasize its support for H.R. 1428, the "Two Floods" legislation, for reasons I will detail shortly.

H.R. 1428 would utilize the existing Flood Mitigation Assistance program (Section 1366) as the key mechanism to provide increased attention to properties with repetitive flood losses. The bill would provide up to an additional $100 million annually for repetitive loss property hazard mitigation, particularly for voluntary buyouts, demolitions, elevations, and floodproofing, with up to $50 million derived from premium dollars and up to $50 million from general appropriations. There is a strong need for such additional funding, which could greatly enhance the potential for pre-disaster flood mitigation. H.R. 1428 would also require payment of actuarial rates for future flood insurance and deny future disaster relief assistance for damage repairs to properties where an owner refuses a reasonable mitigation offer. Finally, it would allow the Director to work directly with repetitive loss owners on flood hazard mitigation where communities cannot afford the minimum 25 percent cost-share or do not have the capability to manage the mitigation project.

In general, the bill provides an excellent framework for approaching a critical set of problems that currently confront thousands of communities across the nation.

In hearings before this subcommittee in 1999, we described the results of a two-year National Wildlife Federation study released in July 1998 regarding repetitive flood losses and for which I served as Project Manager and coauthor. I would like to very briefly reiterate a few of the key results of that study and update some of the numbers.

Repetitive Losses — NWF Study "Higher Ground — A Report on Voluntary Buyouts in the Nation's Floodplains."

After hearing from FEMA in the early and mid 90's that a very small percentage of properties that suffered from repeated flooding were responsible for some 40 percent of total NFIP loss payments, we approached the Federal Insurance Administration with a request for FEMA's data on repetitive losses. We worked out appropriate means to protect individual privacy and subsequently obtained and analyzed FEMA's repetitive loss database for the 18-year period from 1978 - Aug. 1995. The database identified insured properties with two or more paid NFIP losses of at least $1000 each within a rolling 10 year period. In addition, we studied past costs of flooding and flood control activities nationally, and we looked at successes to date with the use of voluntary buyouts - a key "non-structural" approach to reducing flood damages. Our report was titled **"Higher Ground - Voluntary Property Buyouts in the Nation's Flooplains - A Common Sense Solution Serving People at Risk, Taxpayers, and the Environment."**

Significant findings of our report:

- Nationally, flood losses have risen alarmingly through this century, despite huge expenditures on traditional flood control projects. Twenty-five year average national flood losses (in constant dollars) have soared to $4.2 billion annually, more than double what they were early in the century. For the five-year period 1993 - 1998, these losses were more than $8 billion each year. Approximately $140 billion in federal tax revenues has been spent during the past 25 years preparing for and recovering from natural disasters.

- The National Flood Insurance Program (NFIP) is not actuarially sound. It has faced serious and rather chronic deficits. The premiums charged by the NFIP often fail to generate the funds needed to cover flood insurance payments, creating a substantial strain on the program's financial stability. Between August 1995 and 1998, the NFIP had net borrowing from the U.S. Treasury of $810 million. When the NFIP had accumulated a similar deficit in the early to mid-1980's, Congress was forced to spend more than $1.2 billion to bail out the program.

- In many instances, structural flood control projects have lead to a false sense of security, which in turn, has increased risky development in floodplains. A weakness of the NFIP and federal disaster relief programs is that they do not sufficiently discourage risky floodplain development and redevelopment.

Key findings regarding repetitive losses:

- Repetitive loss properties occur in all 50 states. Louisiana, Texas, Missouri, New Jersey, New York, and Florida lead in numbers of repetitive loss properties. More than 4,500 communities have at least one repetitive loss property.

- Repetitive loss properties have received a disproportionate share of NFIP payments for flood losses. **While repetitive loss properties represent only 2% of all insured properties, they experienced 25 percent of the losses and claimed 40 percent of all NFIP flood loss payments**. Total cost of payments made to the 74,501 repetitive loss properties for the eighteen-year period totaled $2.58 billion. Less than one percent (0.8 percent) of floodprone properties — those with three or more losses — received more than one fifth of all flood insurance payments costing the NFIP nearly $1.4 billion.

- 5,629 properties (10% of all single family residence repetitive loss properties) received cumulative flood insurance payments in excess of the highest reported value of the property. At the top end, a single family residence in the Houston area was valued at $114,000, yet it received $806,000 in payments for 16 floods over 18 years.

- **Properties that sustained "substantial damage" were not subject to NFIP hazard mitigation requirements.** NFIP regulations require any owner of any building sustaining a single loss event exceeding 50% of the building's value to either remove the building or reconstruct the building to current code requirements, including elevation to at least the base flood level to reduce flood risk. Nearly 11,000 repetitive loss properties (approximately 15% of the total) sustained substantial damage on one or more occasions during the 18 years studied (costing more than $500 million in NFIP claims through the point of first being substantially damaged), yet overall they continued to sustain losses essentially as they did before they were substantially damaged. This suggests that many NFIP communities have been delinquent in their enforcement of substantial damage rules. In all, 5,578 properties received $167 million in insurance payments after they were substantially damaged. With better enforcement of substantial damage rules, it is reasonable to expect that the subsequent damage would have been greatly reduced.

- **15,275 repetitive loss properties, or 20% of all repetitive loss properties, were classified as being *outside* the designated 100-year floodplain.** These structures received a total of $530 million in NFIP payments. This raises serious concerns about the accuracy of flood insurance maps and further concern that the public is not being adequately informed of the risks of living in the vicinity of floodplain areas.

- The vast majority of repetitive loss properties (94%) are older "pre-FIRM" properties, which were initially constructed before the establishment of flood insurance rate maps and NFIP building standards.

Our report showed that historically many repetitive loss building owners have simply continued to reinvest in extremely high risk properties with chronic flooding problems, often without instituting mitigation measures to reduce the associated risk, and at extremely high cost to the NFIP and other disaster relief programs.

Recent FEMA Numbers.

As of April 30th of 2001, FEMA reports the total number of repetitive loss properties has risen to approximately 91,300 nationally (up from 74,500 five years ago). A total of 45,249 of these properties are presently insured. These buildings, now represent less than one percent of all NFIP insured properties. They have suffered 253,000 losses (or 32% of all NFIP losses) and have cost the NFIP over $3.8 billion -- 38% of total NFIP claims payments since 1978.

In just the past five years the NFIP has paid more than $1.2 billion in repetitive loss claims, beyond the $2.6 billion identified in our study. FEMA estimates these buildings are continuing to cost the NFIP more than $200 million annually.

Of the 45,249 repetitive loss properties now insured, there are approximately 8,400 insured properties with four or more losses paid since 1978 and an additional 1100 with 2-3 losses that have cumulatively exceeded the building value. FEMA has proposed that an initial cost-effective hazard mitigation strategy could focus particularly on voluntary buyouts, elevations, or floodproofing of these very high flood-risk structures with a rapid payback to the NFIP — and ultimately to the taxpayers — from the investment. Such an effort would be greatly assisted by enactment of H.R. 1428.

NFIP subsidies can discourage owners of high risk properties from moving out of harm's way. From our ***Higher Ground*** study, the National Wildlife Federation has concluded that in many instances substantial subsidies in the NFIP and other programs have served to discourage repetitive loss building owners from finding the means to reduce risk or relocate out of floodprone areas. These include:

- a large NFIP subsidy for pre-FIRM properties that receive flood insurance at approximately 38% of the actuarial rate, despite their having a generally much higher risk and frequency of flooding;

- NFIP rates are based on the historical average loss year, which includes no reserves for "catastrophic loss years" that have not yet occurred;

- coastal and riverine erosion factors are not included in basic flood insurance rates, thus substantially subsidizing erosion-prone structures;

- failure by local governments to enforce NFIP "substantial damage" requirements, which results in failure to require damaged properties to meet current building elevation standards, and thus, continue to receive subsidized insurance rates;

- a misplaced reliance on government-subsidized flood control structures, such as levees, jetties, or beach nourishment projects that often lure residents and businesses into a false sense of security.

Nonstructural approaches — Voluntary buyouts can help people at risk, save taxpayers funds, and help communities and the environment by establishing open space and restoring floodplain function.

Madam Chairman, after the 1993 Midwest Flood and amendments were adopted to FEMA's Hazard Mitigation Grants Program (HMGP), some 180 Midwest communities purchased and removed nearly 12,000 flood-damaged homes and businesses out of harm's way, with their associated lands permanently dedicated to open space uses and in most instances placed under the management of local governments for the benefit of their citizens. This amounted to approximately one out of every six homes and businesses flooded in the affected nine Midwestern states.

Primarily since 1993, FEMA reports that approximately 27,000 properties have been voluntarily purchased and removed from the nation's floodplains, and another 2800 damaged properties were elevated or floodproofed, **largely <u>after</u> suffering flood disasters**. Hundreds of communities across the nation have begun to utilize voluntary buyouts as a cost-effective alternative means of reducing flood damages and often at the same time restoring environmental health to streams and coastlines through the blishment of open space, greenways, bikeways, parks, buffer zones, and wildlife habitat areas. Particularly in light of the NFIP's repetitive loss history, there is a strong need for additional funding that can be used for **pre-disaster** mitigation efforts, which can save enormous private and public sums in the long run. The increasing emphasis on floodplain management as a tool for flood damage reduction is a critical new direction in addressing the nation's flood problems. (See Attachment I)

Support for H.R. 1428 -- "Two Floods and You Are Out of the Taxpayers' Pocket Act"

The National Wildlife Federation urges strong support for H.R. 1428 because we believe the legislation provides the best framework for FEMA and NFIP-participating communities to address a full range of problems associated with repetitive flood losses.

The National Wildlife Federation particularly supports H.R. 1428, because:

- it is clear that substantially increased funding levels for repetitive loss pre-disaster mitigation are needed to complement post-disaster mitigation efforts;

- the bill would fully engage the states and communities in developing and implementing hazard mitigation plans to address repetitive loss properties, and in many instances protect and restore the environment; and

- it is important and necessary for the financial health and future stability of the National Flood Insurance Fund that owners of repetitive loss properties should pay rates that reflect the actuarial risk associated with their properties, especially if a reasonable mitigation plan is offered and refused.

H.R. 1428 represents both a reasonable and balanced approach to helping all concerned break the costly cycle of repeated flooding, and the legislation also presents important opportunities to protect and enhance the environment. We believe the approach of H.R. 1428 utilizing primarily the NFIP Flood Mitigation Assistance program (Section 1366) for the repetitive loss mitigation is the best framework for initiating this critical effort, particularly because it will encourage the communities and states to be directly involved with the planning and implementation of their floodplain management strategies. We would add the following suggestions for improving this legislation:

1. We urge that the Director and communities be given sufficient flexibility to address not only repetitive loss structures, but also other structures or properties in the vicinity that may be floodprone and, which, for community land management objectives, should also be relocated or addressed as part of a comprehensive community hazard mitigation plan. Such flexibility is needed for purposes of establishing cohesive plans for wise use of floodplains and sensible public infrastructure development.

2. We urge that a portion of the new funds be made available for planning hazard mitigation projects as well as for implementation grants.

3. We would also urge that mechanisms be established to assure that reasonable hazard mitigation offers would not cause severe hardship for owners or occupants of modest means. Successful hazard mitigation should include plans for adequate and affordable relocation opportunities for any residents involved.

4. As a means of addressing these concerns, we would urge that FEMA be directed to the maximum extent practicable to coordinate efforts with other federal housing, disaster relief, and natural resource management agencies and departments to assist state and local agencies in developing comprehensive hazard mitigation plans.

H.R. 1551 and Administration proposals.

While H.R. 1551 is similar in overall design to H.R. 1428, we would urge once again that the existing Flood Mitigation Assistance program (Section 1366), which has served well since 1994 to carry out pre-disaster mitigation assistance, but which has been limited to only $20 million annually nationwide, is the best tool for an expanded repetitive loss mitigation program. H.R. 1551 would require development of a wholly new program that we do not believe is really necessary, given the success of Section 1366 thus far.

The proposal of the Administration to cut off the availability of flood insurance to repetitive loss properties after one additional claim would directly and forthrightly address the enormous financial strain that these properties represent for the National Flood Insurance Fund. This approach does not, however, guarantee that there will be action to remove properties from harm's way, and therefore we may continue to see significant flood losses and damages, environmental harm resulting from disasters, and we may not receive the public benefits associated with environmentally beneficial restoration of floodplains. We believe that H.R. 1428 balances these concerns by providing a mechanism to offer reasonable mitigation assistance with actuarial insurance rates as the appropriate consequence of a decision to deny the mitigation.

Reducing Flood Insurance Subsidies. We strongly support, however, the Administration's proposal to phase out subsidized flood insurance rates for vacation homes, rental properties, and other non-primary residences and businesses. Such subsidies ultimately result in high cost to the taxpayers. We believe a significantly greater effort should be made to establish the NFIP on an actuarially-sound rating basis. The Bush Administration's proposal is an important first step. The Federation's ***Higher Ground*** report provides ample evidence that subsidies have too often encouraged high risk development and have failed to encourage people to locate away from high risk locations.

Critical need to support FEMA's Map Modernization Program.

The National Wildlife Federation strongly supports the efforts of FEMA to modernize its flood insurance maps. The flood insurance maps constitute basic planning documents for the nation's urban and rural areas. It is critical that these maps be as accurate as is technologically feasible to plan and direct the future growth and development of our communities. It is estimated that a full modernization effort will cost an additional $770 million.

Since the mid 1980's, FEMA has fallen farther and farther behind in updating the nation's 100,000 floodplain maps, and existing maps have not kept pace with current technology. With fully one third of these maps now greater than 15 years old, and another 30 percent at least 10 years old, we are seeing more and more instances of storms that result in much greater flooding than would be predicted by current maps. Any map modernization must be coordinated with maintaining a fully functional stream gauging system to assure accurate data for future mapping efforts. Changes in land use, longer hydrologic data sets, conversion of forests and pastures to drained fields, subdivisions, urban landscapes and increasing impervious surfaces, sea-level rise, and a myriad of other factors are increasingly not reflected in the maps as they age. The situation is so grave in North Carolina – particularly after enormous damages caused by Hurricane Floyd – that the state is launching a statewide remapping accompanied with the largest voluntary property buyout program in the nation's history. One of the most shocking findings of the Federation's ***Higher Ground*** report was that twenty percent of all repetitive loss properties were rated as being outside the 100-year floodplain. These are properties that averaged more than three floods over a period of 18 years. Without accurate maps, which a number of communities are recognizing should be based on likely future conditions, it is certain we will continue to add to the list of repetitive loss properties, and we will see increasing flood damages from existing and new construction in many of the nation's communities.

Because the NFIP maps are fundamental to community planning, NWF believes that it is critical to identify a reliable source of funding to implement Map Modernization. Accurate and up to date maps are of such general importance to community development that it would be entirely justifiable to finance their updating with considerable general taxpayer funds and with appropriate fees or other contributions. It is also clear that the NFIP is in such precarious financial straights that it is not likely to be able to fund from premium revenues the major map reviews and revisions that are needed to make the program reliable. We strongly urge the Committee to identify and support approaches that will provide the necessary funds for the map modernization program as soon as possible.

Conclusion. Once again, on behalf of the National Wildlife Federation, I wish to thank Madam Chairman and the members of the Subcommittee for the opportunity to present our views, and I also wish to thank the sponsors of H.R. 1428 and H.R. 1551 for bringing forward legislation to address the critical issue of repetitive losses in the National Flood Insurance Program. I would be pleased to respond to any questions the Members of the Subcommittee may have.

Attachment I

Literally hundreds of communities across the nation have begun to utilize 'nonstructural' voluntary buyout and relocation approaches to reduce flood damages and to protect and enhance the quality of their environments. Some of the most successful buyout and mitigation efforts have taken place in communities such as the following:

‣ **St. Charles County, MO.** In the wake of the Great Midwest Flood of 1993, the county voluntarily bought out 1,374 flood-damaged properties with $13.7 million in HUD CDBG funds. After another major flood struck in May, 1995, affecting 85 percent of the area flooded in 1993, the total costs of FEMA disaster housing assistance, FEMA Individual and Family Grants, and SBA disaster loans dropped substantially-- from $26.1 million after the 1993 Flood to only $283,094 in 1995. This represented a 99 percent reduction in disaster assistance costs for St. Charles County in comparison with 1993. (See: *"Out of Harm's Way: The Missouri Buyout Program", Missouri State Emergency Management Agency, 1995*). The purchased lands are now being used for open space, parkland, and agriculture.

‣ **Grand Forks, ND, and East Grand Forks, MN.** Following severe flooding in the spring of 1997, the cities decided to undertake a combination levee setback/property acquisition program encompassing more than 1,100 homes and businesses. This courageous effort will result in the creation of a 2,200-acre greenway along the Red River between Grand Forks and East Grand Forks, improving public safety, the environment, and recreational opportunities in the region, and helping to link the economies and cultures of the two cities. Plans include development of parks, open space, sport fields, cultural and educational areas, and restoration of natural stream and floodplain habitat.

‣ **Boulder, CO.** Voluntary floodplain property buyouts in the Boulder area have helped establish a greenway network of trails and bike paths, with extensive recreation use and pedestrian commuting to such an extent that these corridors have become an integral part of the community's alternative transportation network, reducing pressure for sprawl, and encouraging residential and commercial centers to remain in close proximity.

‣ **Tulsa, OK.** Following a disastrous flood in 1984, Tulsa developed an aggressive floodplain management system that has included the purchase of over 1,000 structures that were subject to flooding on multiple occasions. Since the mid-1980s, Tulsa has invested $200 million in structural, non-structural and other flood damage reduction projects to help solve its repetitive loss problems, $40 million of which has come from federal funding sources, including the Hazard Mitigation Grant Program and the Flood Mitigation Assistance Program. Evidence of Tulsa's success can be seen in the decline of flood insurance payments for repetitively flooded homes: there were 93 repetitive loss properties that flooded in 1984, 32 in 1986 and five in 1995. Much of the acquired lands are now used as parks, floodways, and wildlife habitats, and recreation areas.

▸ **Albany and Newton, GA.** After a tropical storm hit Georgia in 1994 and damaged or destroyed approximately 7,000 homes and businesses in Newton and Albany, the cities decided to seek funding for the acquisition of many of their most disaster-prone properties with funds and assistance from FEMA. By early March of 1998, the two cities had acquired nearly 200 structures at a total combined cost of approximately $2 million. This proved to be a worthwhile and timely investment— because between March 7^{th} and 9^{th}, 1998, the region received more than 10 inches of rain and again suffered major floods. It is estimated that the acquisition programs in Albany and Newton saved nearly $4 million in flood damages, far exceeding the projected benefits calculated at the outset of the project.

In each of these cases, communities have made or are making major investments through voluntary buyouts and other hazard mitigation approaches to reduce future risk of flooding and also to improve the community's environment. These are examples of a number of larger scale mitigation activities, but in hundreds — potentially thousands of communities — there are a wide range of valuable, cost-effective mitigation activities that can be pursued to reduce repetitive loss costs and provide important public benefits.

STATEMENT FOR THE RECORD

ON

REPETITIVE LOSS MITIGATION STRATEGY AND THE NATIONAL FLOOD MITIGATION PROGRAM

BEFORE

THE UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

BY

DALE W. SHIPLEY

CHAIRMAN, LEGISLATIVE COMMITTEE, THE NATIONAL EMERGENCY MANAGEMENT ASSOCIATION
AND
EXECUTIVE DIRECTOR, OHIO EMERGENCY MANAGEMENT AGENCY

JULY 19, 2001

Introduction

Thank you Madame Chairman, Ranking Member Frank and distinguished members of the Committee for allowing me the opportunity to provide you with testimony on FEMA's repetitive loss mitigation strategy and the National Flood Insurance Program (NFIP). My name is Dale Shipley and I am the Executive Director of Ohio Emergency Management Agency. I am here today representing the National Emergency Management Association (NEMA). Currently, I am the Chairman of the Legislative Committee for NEMA and I come before you today to represent the state emergency management directors in the 50 states and the U.S. territories who are its core members. NEMA's members are responsible to their governors for emergency preparedness, mitigation, response and recovery activities.

NEMA has long supported effective mitigation programs that are cost-effective to the U.S. taxpayer. As an organization, we worked closely with Congress and the Federal Emergency Management Agency (FEMA) to draft the Disaster Mitigation Act of 2000 (P.L. 106-390) which was signed into law last year. This law was the culmination of many years of hard work and calls for FEMA to develop a pre-disaster mitigation program. Any repetitive loss program or reforms to the National Flood Insurance Program should be a part of FEMA's pre-disaster mitigation program.

Currently, FEMA is in the process of putting together a pre-disaster mitigation program. However, that means that there will be gaps between the previous program and any program FEMA may develop for fiscal year 2003. Even the House Appropriations Committee recognized the importance of such a strategy and recommended funding for pre-disaster mitigation in fiscal year 2003. Sadly, state and local governments and taxpayers cannot afford to wait. Pre-disaster mitigation saves lives and property and is essential for preventing extensive federal disaster relief. While mitigation has never been scientifically quantified to provide a specific dollar savings, some experts say that for every one-dollar spent on mitigation, two dollars are saved. While I recognize that I am here today to discuss repetitive loss mitigation strategies, I want you to understand how essential it is for FEMA to have a stable, long-term pre-disaster mitigation plan that has uninterrupted funding in order for any repetitive loss strategy to work. I urge you to take a critical look at the FEMA budget you are proposing and consider all the activities that fall into the pre-disaster mitigation area and to please consider if your district and constituents should be forced to do without this program and its benefits.

NEMA applauds the efforts of Representatives Bereuter, Blumenauer, and Bentsen to reform the National Flood Insurance Program. NFIP has been an effective mitigation program when it is managed properly by local participating governments because it shifts the burden of responsibility from the taxpayer to the individual property owner. The NFIP is currently in need of revisions, especially in the repetitive loss structures. NEMA is supportive of the general efforts included in both bills, but offers some suggestions for your consideration.

Revisions to the Flood Mitigation Assistance Program are necessary. Since the program's inception, many states have made good use of these funds to reduce the number of repetitive loss properties. The current level of FEMA funding from premiums paid to the NFIP of $20 million was a positive step. If we are to significantly reduce the repetitive loss properties in a reasonable time, more dollars are needed.

We support reducing losses of both lives and property by moving people out of harm's way and thus we are supportive of the concepts in these bills. NEMA remains concerned that all participating in the NFIP are treated equally. We wish to ask you to further address the concept of property renters in your legislation and ask you to consider that while some people choose to live in the flood plain, many are forced to live in the flood plain because prices are significantly lower and they cannot afford to live anywhere else.

These bills represent a significant advance to reduce disaster costs in America. Flooding is the most common of all disasters and represents a significant percentage of all disaster costs. Reducing the number of structures that are subject to repetitive loss will decrease disaster costs.

It is important to recognize that the threshold for a disaster is relative to every level of government. There are many more local disasters then there are state disasters and only a small percentage of state disasters reach the level of Presidential Disasters. All disasters are local and the NFIP is the country's first responder in terms of enabling individual homeowners to recover from flooding. The minimum threshold for a payment to a homeowner is two contiguous properties and as such enables homeowners to recover from flooding events that may not even be designated a local emergency by the city or town they live in. Therefore, repetitive payments to homeowners can occur without a disaster declaration and may even be made without the knowledge of the local emergency managers.

Disincentives to living in a flood plain are not new. The Colorado River Floodway Protection Act strictly limits the building of both infrastructure and property in the 100-year floodplain by prohibiting any financial assistance including disaster recovery payments to any homeowner or political subdivision that violates provisions of the Act. The Floodway Protection Act also amended this legislation to prohibit the purchase of flood insurance for any new structures in the floodway. It should be noted that the floodway definition is the 100-year floodplain or 40 thousand cfs, whichever is greater, which is equivalent to the definition of floodplain in this legislation. Congress should not see this legislation as raising the bar to a height that can not be tolerated. The bar has already been set in the West and it has been demonstrated that strong legislation is an effective tool to reducing disaster costs. However, we need to ensure that the legislation is fair and treats everyone the same regardless of whether they live in the East or West or North or South. Additionally, any effective mitigation program includes funding to upgrade the flood maps.

NEMA strongly urges you to consider that buy-outs of property not occur unless a specific comprehensive plan is developed and supported by local governments. Further, the plan should outline who will maintain the land after the buy-out. In recent years, mitigation projects have been approved by state emergency management agencies, as well as local governments. We would continue to support this holistic approach.

Another area where clarification would help with both bills is addresses the sale of property and if the program is counts floods on a property or floods under an owner. Recently, a woman from Ohio bought a home and her property subsequently flooded. She was dropped from the NFIP, because the property has previously been flooded 17 times. This issue raises all sorts of issues about the laws governing notification to homebuyers about previous floods as well as privacy issues. Nevertheless, we need to make sure homeowners know coming into a home purchase exactly what FEMA and the NFIP know about their property and what the status of the property is in terms of insurance coverage under the NFIP.

Perhaps we should look at a five-year firm, but fair, risk based program that would:

- assist in mitigation over those five years and if mitigation did not occur then there would be no more NFIP eligibility;
- balance the needs of acquisitions and other eligible mitigation activities to serve both local, state, and national interests;
- incorporate programs to elevate structures as much as 1-2 feet above the 100 year flood plain;
- increase rates over those five years to address repetitive losses; and
- ensure fair treatment for all including homeowners, businesses, and coastal property owners.

Let me now discuss the **Bereuter and Bluemenauer, "Two Floods and You are Out of the Taxpayers Pocket".**

- We applaud the proposed increase of funding to $70 million for the next four years. However, we recommend that revenue dollars be used instead of funds from the National Flood Insurance Fund. If the funds are not provided for through general revenue, we believe there could be a potential loss of policy-holders due to a fee increase. Repetitive loss homeowners and businesses place a heavy burden on local officials for emergency disaster assistance;

- We appreciate the emphasis on the use of the National Flood Insurance Fund and the waiver of the funding cap to states and local communities;
- Currently, regulations promulgated under the NFIRA of 1994 require that all states receive a $100,000 minimum "floor" of FMA funding. A number of the states that receive this "floor funding" have few, if any repetitive loss structures. We recommend that this be revisited;
- We would support applying actuarial rates under the following circumstances:

  Post Firm Properties – Any property that was constructed after December 31, 1974 or constructed after the effective date the rate map was published by FEMA.

  Repetitive Claim Payments Properties – Any property that has received more that one claim payment and the owner has refused a mitigation action.

  Certain Leased Coastal and River Properties.

  We strongly support the coastal and river properties, but we believe that the language will exclude some of the most egregious repetitive loss structures. We would respectfully recommend that actuarial rates be applies to ALL properties located in a special flood hazard area that are leased from federal agencies;
- We support the proposal to prohibit any disaster assistance to repair, replace, or restore a property to be paid out for a repetitive loss structure when the owner has refused a mitigation action;
- We understand that not all owners of repetitive loss properties will voluntarily sell their property and that not all local governments will agree to participate. This should be taken into account in any revision of the NFIP;
- We believe that changes included in Section 1323 are in need of further review and clarification. This provision implicitly outlines that ownership of acquired property is controlled by FEMA. This could place heavy burdens on the federal government to maintain and regulate scattered parcels as open space. Weeds would have to be controlled in accordance with local ordinance and the opportunity could exist for "dumping grounds" if locals sense no

responsibility to maintain the lands as open space. Further, acquisition of the land could mean that local governments lose property tax revenue; and

- As managers of the NFIP, FEMA must be able to recognize that a claim has been made to the Fund and be in a position to offer to purchase the flooded property before a premium can be made. Individual homeowners are much more likely to sell before they have had a chance to rebuild. H.R. 1428 provides the funding and the incentives to homeowners to sell, but does not change the decision level to make an offer to purchase.

Additionally, I would like to address **Representative Bentsen's "Repetitive Flood Loss Reduction Act of 2001".**

- H.R. 1551 does change the decision level to purchase a property to the federal level, but then the federal government owns property all over and this presents a local problem with trash, etc. It also provides for the authorization of small infrastructure development, which in Western states has been a very effective way to reduce vulnerability. Small streams and watersheds that have insignificant flows or sheet flooding across a flat plain can easily be mitigated with a small floodwall thereby reducing disaster impact.
- NEMA would oppose allowing homeowners seeking buy-outs to work directly with FEMA for grants. An essential element for success is ensuring that ALL levels of government; federal, state, and local are engaged in a comprehensive plan. Currently, other mitigation programs such as the Hazard Mitigation Grant Program and the Flood Mitigation Assistance Program are administered by the states in concordance with statewide mitigation strategies that prioritize mitigation projects based on the hazards and vulnerabilities of particular communities. Without state involvement in the process, communities may seek grants for projects that are being funded through another state mitigation program. Some states strategies may not include a buy-out plan because there may be another more effective and appropriate mitigation activity for that community or region of the country.

- We would recommend that Section 1368 (c) 1 include "acquisitions" as an eligible mitigation activity.
- We would recommend that the timeline for the Director to approve or reject an application in Section 1368 (d) (2) be extended to account for the time need to complete the required benefit cost analysis and the environmental reviews.
- Under Section 1368 (f) (1), NEMA recommends further review of the "open offer" provision that would notify the property owner each time the flood insurance policy is renewed. Not only would the "open offer" be burdensome, but it would impose hardships on grantees because they would not know from one year to another whether the grantee would ever accept the offer and force the grantee to maintain a 25 percent match if a buy-out ever did occur.
- NEMA respectfully requests that Section 1368 (f) (4) be rewritten to address further considerations and consultation by local or state governments. As written, the provision would lead to problems if the owner accepts the purchase offer but local or state government refuses ownership. Having FEMA responsible for liability and maintenance of the property is not a desirable solution.
- We recommend that Section 1368 (f) (6) reference "the individual in an NFIP participating community responsible for administering the program" rather than the regional floodplain administrator.
- We would ask that the definition of community exclude counties in particular states that do not have zoning and building code jurisdiction. We also would recommend that the definition of repetitive substantial flood loss structure should mirror the current floodplain regulations. Conflicts in the definitions could weaken current definitions in practice.
- Increasing premiums to reflect risk is necessary to reduce the incentive to build in the floodplain. NEMA supports the effort to prohibit future development in high hazard areas and provide disincentives for people to occupy existing buildings that are subject to flooding.

Presidential Budget Recommendations

NEMA supports initiatives to limit the availability of coverage under the National Flood Insurance Program for repetitive loss properties where the owner has not made efforts to mitigate and does not pay risk-based premiums. Additionally, NEMA supports phasing out subsidized premiums for vacation homes, rental properties, other non-primary residences and business properties.

Conclusion

While spending by the states for emergency management has dramatically increased over the last five years, efforts to control spending through addressing repetitive losses should not necessarily be linked with lowering the receipts of the disaster relief account. NEMA and Congress must work in a partnership to ensure that mitigation strategies for repetitive loss treat property-owners fairly and incorporate state and local mitigation strategies. Any repetitive loss program must be administered by state governments, as are current mitigation programs and have the buy-in of local governments.

I thank you for the opportunity to testify on behalf of NEMA and welcome any questions that you might have. Only through a partnership of federal, state, and local governments, can our country prepare and respond to emergencies and disasters. Thank you for your consideration.