



National Association of Flood & Stormwater Management Agencies

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Testimony of the National Association of Flood
And Stormwater Management Agencies

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Water Resources Development Act of 2008

U.S. House of Representatives
Water Resources and Environment Subcommittee
Transportation and Infrastructure Committee

Rep. Eddie Bernice Johnson, Chairwoman

April 30, 2008

The National Association of Flood and Stormwater Management Agencies (NAFSMA) is very pleased to present this testimony addressing priorities for the Water Resources Development Act of 2008.

NAFSMA wishes to thank the leadership on both sides of the aisle for all of your assistance to move WRDA 2007 forward. This was an enormous effort as the legislation was long overdue and as a result, there was much to be considered. NAFSMA greatly appreciates all of the efforts and contributions made by Members and staff to enact this legislation. We also appreciate your commitment to keeping WRDA on its biennial schedule by moving a water resources bill this year. We also support many of the policy changes enacted in the 2007 legislation and look forward to their implementation as Corps headquarters moves forward on guidance development on these new initiatives.

Background on NAFSMA

NAFSMA is a 30-year old national organization based in the nation's capital that represents close to 100 local and state flood and stormwater management agencies, most of which are located in large urban areas. NAFSMA members serve more than 76 million citizens by providing flood and or stormwater management. As a result, the association has a strong interest in the Water Resources Development Act.

The mission of the association is to advocate public policy and encourage technologies in watershed management that focus on flood protection, stormwater and floodplain management. Through this mission, NAFSMA enhances the ability of its members to protect lives, property and economic activity from the adverse impacts of storm and flood waters.

It is important to note that many of NAFSMA's member agencies are currently non-federal partners with the U.S. Army Corps of Engineers in water resources projects, including flood damage reduction and environmental restoration.

Formed in 1978, NAFSMA works closely with the Corp, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency to carry out its mission. NAFSMA members are on the front line protecting their communities and regions from loss of life and property. Therefore, the organization is keenly aware that flood damage reduction activities and projects are a wise and necessary investment required first to reduce loss of life and ensure the safety of our citizens

and secondly, to reduce damages to peoples' homes and businesses and protect them from economic disruption. Flood management has proved to be a wise investment that pays for itself by preserving life and property, thereby reducing repeat requests for federal disaster assistance.

This protection has been provided through a strong and well-tested federal-non-federal partnership. As a result, NAFSMA is dedicated to ensuring that the nation's flood management systems can be operated and maintained properly and any needed inventory, assessments and repairs to flood damage reduction projects can be carried out smoothly.

NAFSMA has worked closely with the Corps and other federal agencies to develop timely and effective flood management policies. A task force led by NAFSMA through the early 1990's resulted in many changes to what was then the model Local Cooperation Agreement. The result was a new model Project Cooperation Agreement for federally-partnered flood damage reduction projects. NAFSMA has continued to provide review and input on these critical agreements as the models have been modified and improved in recent years. In 2007, NAFSMA convened a team, which included national experts from local and regional flood management areas, the private sector and academia, to review the Decision Making Chronology Document for Lake Pontchartrain and Vicinity.

Interagency Flood Risk Management Efforts

Beginning in August 2005, just prior to Hurricane Katrina's devastating impact on the Gulf Coast, NAFSMA convened a discussion between our members, Corps leadership, FEMA, the Association of State Floodplain Managers, and other levee experts to discuss the need to inventory and assess the nation's levees due to issues that would definitely develop in this area as FEMA's flood map modernization process continued to move forward. This meeting and numerous later joint interagency discussions has led to a much stronger working relationship in the flood damage reduction arena between the Corps of Engineers and FEMA.

NAFSMA very much appreciates the strong initiatives of both agencies and their leaders to speak with one federal voice on these critical issues. Many strides have been made in this effort at the federal level and we hope that this continued commitment will result in better communications and partnerships at the District and regional levels of both agencies.

Recognizing that a good number of very positive steps were also taken to improve the non-federal sponsor/federal relationship in WRDA 2007 and to address critical levee safety issues, NAFSMA recommends the following issues be addressed as part of the WRDA 2008 debate.

NAFSMA Recommendations for WRDA 2008

Enact WRDA 2008 – It is critical that biennial reauthorization of the Water Resources Act occur. Not only does this necessary legislation provide an opportunity to review and shape the policies, programs and projects of the U.S. Army Corps of Engineers, it is needed to strengthen the partnerships necessary to achieve the flood damage reduction goals of this nation. Local and regional agencies depend on WRDA’s reauthorization. In many cases, needed flood damage reduction projects face significant cost increases while waiting for authorization. These added costs hit both federal and non-federal partners.

New Construction Flood Damage Reduction Projects Need To Be Included in WRDA

Many existing and potential non-federal sponsors and their congressional delegations held critical projects back from consideration in WRDA 2007 at the request of committee leadership and staff in an effort to move the bill forward last session. These projects now need to be considered.

Establish Levee Safety Committee

Although authorizing language was enacted in WRDA 2007 to establish a national levee safety committee with the charge of assisting in the development of a national levee safety program, this committee has yet to be established. It is our understanding that additional clarifying language is needed based on Counsel’s opinion before the Corps can expend funding on this effort. NAFSMA strongly supports this language and urges this committee to assist in enactment of this language through WRDA or another legislative vehicle so that this critical initiative can move forward.

During this interim period, NAFSMA urges the Corps to move forward with selection of Levee Safety Committee members and to begin dialogue with Congress and stakeholders to shape the goals and outline a workplan for the committee.

Authorize Corps to Accept Local Funds to Carry Out Levee Certification Work

NAFSMA understands the importance of the “Thomas Amendment,” but is very concerned that in the area of levee certification, there needs to be a mechanism for local sponsors to provide funds for the Corps to carry out certification activities. Since most of our members’ projects have been built through partnering with the Corps, the agency’s District offices are in many cases uniquely suited to carry out the levee certification activities.

If the federal government is asking private engineering firms to take on this responsibility, the federal government’s engineering branch should be able to help perform these activities as well. NAFSMA offers to work with the Committee to develop a workable approach to this issue.

Limit Contractual Liability of Operation, Maintenance, Repair, Replacement and Rehabilitation Requirements to the Design Life of the Project

NAFSMA urges the Committee to draft language that addresses non-federal and federal concerns about responsibility for federally-partnered projects once they reach or extend their design life.

Cost Sharing for Strengthening and Retrofits to Federally-Partnered Projects

NAFSMA recommends that since most of these projects were cost-shared with 65 percent federal/35 percent local contributions, all work and costs (including mitigation) that may be needed to retrofit and strengthen levees, (that has not developed due to neglect of operations and maintenance responsibilities of the local sponsor), should be cost-shared using the same funding requirements (65/35) used when the project was originally authorized.

Crediting for Ecosystem Restoration Activities Linked with Levee Safety Strengthening and Retrofits

NAFSMA urges credit or reimbursement be provided to the non-federal sponsor for ecosystem restoration activities that may be justified as the result of work performed to repair or improve existing flood management structures to meet federal levee certification requirements. This may already be possible under section 2003 of WRDA 2007, but we will not know until the Corps has developed the implementation for that new authority.

Raise Cap on Credits for Levee Safety Activities

NAFSMA urges that any credit authorized for work performed by a non-federal sponsor, or cost sharing partner, for identified levee strengthening or retrofit activities not be limited to the nonfederal cost of the project. In parts of the country where major activity is needed to repair federally-partnered flood management projects, the nonfederal sponsor needs the ability to get out in front of these activities with the knowledge that they may later work with the Corps and Congress to receive needed and appropriate credits. The credits should be available for the nonfederal sponsor to use for planning, design, and construction of other federally authorized projects that the nonfederal sponsors undertakes with the Corps and should be available for covering the costs of lands, easements, rights of way, relocations, and any cash requirements, including the minimum 5% cash requirement for flood damage reduction projects. NAFSMA offers to work with the Committee and the Corps to amend these applicable sections.

Authorize Updating of Operations and Maintenance Manuals to Provide Necessary Permits for Operations and Maintenance Activities

There needs to be a process developed that would provide for review and updating of operations and maintenance manuals to address permitting concerns. It is NAFSMA's understanding that operations and maintenance manuals for newly-constructed Corps-partnered flood damage reduction projects now include necessary federal environmental permits for local operations and maintenance activities for a five-year period.

NAFSMA urges that provisions be included in WRDA 2008 that provide for the development and incorporation of watershed or watercourse plans into updated federal operation and maintenance manuals for existing projects, which would include needed Section 404 permits, or otherwise allow local agencies to perform the required project maintenance without the need to obtain federal permits and without requiring costly mitigation measures.

Encourage Corps of Engineers to Coordinate With Other Federal Entities and State and Local Agencies to Streamline Permits Needed for Operations and Maintenance Activities

NAFSMA strongly supports language to place the Corps in a lead facilitation role in the environmentally permitting process for federally-partnered flood damage reduction and ecosystem restoration projects.

Recognize Local Expertise and Responsibility in Flood Damage Reduction

NAFSMA urges that the Corps be authorized to research and develop a program that recognizes qualified local and regional agencies with expertise and capability to accelerate the Corps process for areas facing significant aging infrastructure and public safety risks. The association offers to work with the Committee to help shape such an approach.

Sound Floodplain Management Incentives

NAFSMA urges that a sliding cost share formula for federally-partnered flood damage reduction projects be developed based on a community's rating in the Federal Emergency Management Agency's Community Rating System (CRS). We would urge that the 35% local cost share be reduced for non-federal sponsors that are carrying out sound floodplain management activities and have achieved a strong rating from FEMA as part of the CRS program. Such incentives have been successful at the state level. This was one of the critical recommendations that was developed at a Flood Risk Policy Summit held in December 2007.

Corps Participation In Climate Change Research

NAFSMA urges inclusion of the Corps in federal climate change research efforts and strong and deliberate interagency cooperation and coordination among federal agencies (especially with the U.S. Geological Survey's Streamgaging Program) in this arena, and the inclusion of state and local officials in the research and policy development.

NAFSMA very much appreciates this opportunity to testify and looks forward to working the Committee on WRDA 2008. Please feel free to contact me or NAFSMA Executive Director Susan Gilson at 202-218-4133 with questions.