



NATIONAL ASSOCIATION OF FLOOD AND STORMWATER MANAGEMENT AGENCIES

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Testimony of the National Association of Flood
And Stormwater Management Agencies

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National Levee Safety Issues

U.S. House of Representatives
Transportation and Infrastructure Committee

Public Buildings, Economic Development
and Emergency Management Subcommittee
Eleanor Holmes Norton, Chair

Water Resources and Environment Subcommittee
Rep. Eddie Bernice Johnson, Chairwoman

May 8, 2007

I am very pleased to present this testimony on national levee safety issues on behalf of the National Association of Flood and Stormwater Management Agencies (NAFSMA).

Background on NAFSMA

NAFSMA is a national organization based in the nation's capital that represents more than 100 local and state flood and stormwater management agencies. Its members serve a total of more than 76 million citizens and as a result, we have a strong interest in the issues the committee is discussing today.

The mission of the Association is to advocate public policy on issues relating to flood protection, stormwater and floodplain management in order to enhance the ability of its members to protect lives, property, and economic activity from the adverse impacts of storm and flood waters. Many of NAFSMA's members are currently non-federal partners with the U.S. Army Corps of Engineers in water resources projects, including flood damage reduction and environmental restoration projects.

Formed in 1979, NAFSMA works closely with the Corps, as well as 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 from loss of life and property. Our membership is keenly aware that flood risk management is a wise and necessary investment required first to prevent loss of life and ensure the safety of our citizens and secondly, to reduce the risk of damages to peoples' homes and businesses and protect them from economic disruption. Flood management has proven to be a wise investment that pays for itself by preserving life and property, thereby reducing the probability of repeat requests for federal disaster assistance.

We appreciate the committee's interest in the role of national levee safety in this arena and we share the commitment to protect our citizens from the risk of flooding and hurricanes. On behalf of NAFSMA, I also want to take this opportunity to thank both David Maurstad and Steve Stockton for their dedication to resolving these critical national issues. Although we still have a long way to go to establish a national levee safety program, we would not be where we are today if not for the personal commitment of Director Maurstad, Assistant Secretary of the Army (Civil Works) John Paul Woodley and the

leadership in Corps headquarters to address this issue head on and to work to develop one federal voice on this issue.

Well before August 2005 and the tragic flooding events in the Gulf Coast as a result of Hurricane Katrina, NAFSMA was concerned about the impacts of levee safety on both the Corps of Engineers' flood management program and FEMA's Map Modernization program. We commend both FEMA and the Corps for their commitment to tackle these difficult issues and for their efforts to work closely together to define and coordinate their messages to the local and state flood management agencies.

NAFSMA Supports the National Levee Inventory Program

NAFSMA has strongly stressed the need for and supported the creation of a national levee inventory program. Our members feel that this inventory should be federally-funded and should be housed with and maintained by the U.S. Army Corps of Engineers. Since this issue was first raised, prior to Katrina, the Corps and FEMA have made a great deal of progress to identify where levees are located throughout the country, who has responsibility for those levees and which levees are most deficient from a maintenance perspective. In addition, they have set up a process for certification of levees for the purposes of their agency programs and established ongoing interagency communication in the arena of flood risk management at both the headquarters and regional levels. By any standard, these are huge accomplishments in a relatively short period of time.

In this past year, FEMA and the Corps have worked closely to identify those levees with critical maintenance deficiencies. A list of the levees that have been identified as having the most pressing deficiency issues was released in January of this year and the Corps has contacted those levee owners, as well as the appropriate local officials and congressional delegations, to inform them that these maintenance deficiencies must be corrected within a year. While NAFSMA applauds the interagency efforts in this direction and the development of an inventory that can identify where such problems exist, we are concerned that a one-year correction period is not a long enough period to meet these requirements and that there is a lack of resources available to help with this effort.

A number of NAFSMA local, state and regional flood control agencies fall into another category where they are in a provisionally accredited levee (or

PAL) status. This category provides a two-year period for the local agency to provide the required certification to the Corps and FEMA that adequate maintenance requirements have been met and the structural integrity and level of protection verified.

While this may seem like a reasonable period of time to meet this requirement, different interpretations of the Corps and FEMA guidance documents have already developed in the field and these documents have not even been out for a year's time. Funding resources are not available at the federal level to carry out these certifications and in some areas. Local governments and regional entities are concerned about where to get the funds to perform the certification and whether they will be able to find private engineering firms willing to sign the needed certification documents due to liability concerns.

At this point, it is clear that we need to move forward with a national levee inventory and ensure that a realistic certification process continues. The process needs to ensure both public safety and provide realistic expectations that can be met by the owners and operators of these levees.

NAFSMA also supports the need for assessments to move forward where there is clearly a demonstrated need for such action – either maintenance deficiencies have been exhibited or potentially dangerous situations have been identified in the ongoing certification process.

NAFSMA Supports the Establishment of a National Levee Safety Commission Charged with the Development of a National Levee Safety Program.

NAFSMA strongly supports the establishment of a National Levee Safety Commission with a charge that by a date certain this group will report back to Congress on the need, potential structure, and federal, state and local resources that should be directed to this program. Federal representatives, as well as appropriate representatives from states and local and regional governments, as well as the engineering community, need to be involved in this effort.

NAFSMA is concerned about moving too quickly to develop a national levee safety program, such as the one outlined in the pending Senate water resources legislation. Legislation has been proposed to direct “the Secretary,

in consultation with the Committee and State levee safety agencies, shall establish and maintain a national levee safety program.” Since state levee safety agencies do not presently exist in most states, this is really putting the cart ahead of the horse. If we want to design a program that truly fits the needs of this country and addresses the national levee safety issue, we must first develop an understanding of the current situation and then design a national program to address those issues.

The fact that a state may have a dam safety program in place does not mean it’s ready to take on responsibility for a levee safety program that has yet to be developed. There are differences between dam and levee safety issues that need to be addressed. According to the Association of Dam Safety Officials website, 58% of the country’s dams are privately owned. Although we have a number of privately owned levees, primarily for agricultural protection, the majority of levees that protect our urban populations are owned, operated and maintained by public agencies. Any national levee safety program should reflect this difference. Identification and communication of risk and emergency management strategies need to be part of our national levee safety strategy.

Levee safety, and the broader flood risk management issues, are critical and represent responsibilities that are shared by local, regional, state and federal levels of government. While some of the nation’s levees are owned and operated by the federal government, many are owned, operated and maintained by regional entities with more resources and capability than exist at the state level. Although this is not the same in every state, we cannot at this point call for the implementation of a program without adequate discussion of how that program should be designed to meet the need for enhanced protection.

We urge you at this point to first authorize a federally-funded Commission, with the U.S. Army Corps of Engineers and FEMA taking the lead roles in federal agency participation. The U.S. Environmental Protection Agency and Department of Interior, especially the U.S. Fish and Wildlife Service, and local, regional and state representatives with expertise in levee safety issues need to be represented on the Commission.

The majority of flood control projects and levees that are owned and operated by NAFSMA members (public works agencies, special flood control districts and other regional entities, as well as the states) have been

built in partnership with the U.S. Army Corps of Engineers. In these cases, a national interest was determined to exist with these projects and the efforts to study and construct these projects were cost shared.

It is important to understand that there is a necessary role for the federal government in these issues. Since many of these projects affect interstate waters, there is a national interest in making sure that these interstate water management issues are addressed.

NAFSMA Supports Streamlined, Or Facilitated, Permitting for Flood Management Operations and Maintenance Activities

While NAFSMA members understand that once a project is completed they become the owners and operators of these partnered flood control projects, there are a number of issues that complicate this matter. First, although maintenance issues such as addressing vegetation on levees seem simple, it is important to note that it is often difficult to secure necessary regulatory permits to carry out this work. These issues become even more difficult to address when the vegetation provides habitat for a federally listed endangered species.

Another critical issue for maintenance of levees is burrows in the levees. This can be an especially complicated issue if the burrowing animal happens to be an endangered species. This problem of meeting federal Clean Water Act and Endangered Species Act requirements is extremely difficult to resolve and becomes even more complicated when state water quality and fish and wildlife certifications are involved. Many of these levees are in areas with numerous identified and listed endangered species. In Riverside County, California alone, for example, there are 91 species with a status of either endangered, threatened, or proposed for listing.

For completed flood control projects, we need to develop a mechanism to review and modify some of the existing operations and maintenance manuals for these projects to ensure the necessary regulatory permits will be provided for operations and maintenance in a timely manner; and that endangered habitat and species are protected and water quality regulations are met.

For new federally-partnered flood management projects, the needed regulatory permits and mitigation for maintenance should be provided as

part of the operations and maintenance manual when a project is turned over to the non-federal sponsor. A review process could be established to this end. NAFSMA recommends a five year cycle, which we feel would allow for these permits to move through the state and federal review process.

In cases where emergencies exist, or potentially could exist, due to threats to the existing flood management system, streamlined permitting processes must be made available to local agencies. Our agencies have often been delayed in carrying out routine maintenance activities needed to keep their flood management systems operating at optimal levels, by their inability to obtain necessary federal permits in a timely manner, if at all.

Extreme examples have involved the inability of our agencies to clear flood channels of vegetation because of the time and mitigation needed to apply for and receive a section 404 permit. Local and regional agencies have even been faced with one federal agency telling them that flood control channels in their systems must be cleared or any National Flood Insurance claims would be subrogated against them, while another federal or state agency was preventing them from obtaining the necessary permits to do the work. Clearly there must be a means to coordinate these conflicting concerns to meet the overarching national and interstate responsibility of ensuring protection.

Continue Adequate Funding of FEMA's Map Modernization and Mitigation Programs

Although we have focused much of our testimony on the Corps' role in a national levee safety program, it is critical to note that accurate Flood Insurance Rate Maps are an essential part of national levee safety and flood risk management activities. To ensure that these maps are available to all levels of government as soon as possible, NAFSMA strongly supports continued adequate funding of FEMA's Map Modernization Program and its mitigation programs.

The FY03 budget for FEMA reduced the Hazard Mitigation Grant Program (HMGP), which is used for post-disaster mitigation, from the previously authorized 15% of disaster relief funds to 7.5%, and also established a competitive pre-disaster mitigation grant program. NAFSMA believes that the HMGP authorization should be returned to 15%, and that both pre- and post-disaster mitigation must be adequately funded.

We are concerned not only that these federal funds must be appropriated, but also that the process for local governments to obtain these funds must be streamlined. For many of the nation's smaller communities that could benefit from mitigation dollars, the applications and necessary coordination requirements at both the state and federal levels are much too daunting. They just don't have the staff or financial resources to put together a competitive application. Meanwhile, properties that could be bought out and moved from the 100-year floodplain remain in harm's way. We urge you to not only provide adequate resources for mitigation, but to work with local communities to look for better ways to distribute these limited funds on a national basis.

In closing, NAFSMA very much appreciates the opportunity to present our thoughts on these critical national issues to the Subcommittee for consideration. We stand ready to work with you on these important issues and would welcome any of your questions.