CA — CAP TO CAP — DC

FLOOD PROTECTION

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MODERNIZE FEMA'S NATIONAL FLOOD INSURANCE PROGRAM FOR AGRICULTURE

Business Nexus

California's Capital Region is surrounded by agricultural lands that are protected by levee systems. Agriculture is a huge economic driver for the Country, and also essential from a national security perspective. Yet the requirements of the National Flood Insurance Program (NFIP) are interfering with the sustainability of this vital economic driver.

Requested Action

Include provisions in the reauthorization of the National Flood Insurance Program (NFIP) which ease the requirements of the NFIP that do not make sense when applied to agriculture:

- Allow umbrella policies where a farmer could bundle multiple low-value agricultural structures under a single policy.
- Allow limited construction of new agricultural structures in a floodplain when elevation or floodproofing are not practicable.
- Map leveed areas into a new zone that would specifically apply to lands protected by levees, but do not reach the 100-year level of protection.

Language addressing each of these issues was included in the bill that passed the House Financial Services Committee in the last Congress (H.R. 3167, sections 402, 210, and 209).

Brief Background

California's Capital Region is surrounded by agricultural lands that are protected by levee systems. Agriculture is one of the most appropriate land uses in the floodplain because it minimizes the population at risk; requires relatively few structures; uses the land productively to provide a much-needed commodity; and provides wildlife benefits. In other words, a vibrant, sustainable, agricultural economy is a key defense against risky and unwise floodplain development.

In 1968, Congress established the NFIP. The NFIP has served the country well in reducing the risk of flooding through the implementation of essential floodplain management practices in exchange for federally backed flood insurance. The Sacramento Valley levee system is a Federal system administered by the U.S. Army Corps of Engineers (USACE). At the NFIP's inception, the Sacramento Valley levees were largely assumed to meet FEMA's base flood requirements, based on representations by USACE. In 2001, FEMA began the NFIP Map Modernization Program in order to digitally manage flood risk. As part of this process, most levees protecting rural communities in the Sacramento Valley were found to not meet FEMA's current engineering criteria for levees, and the lands behind them were mapped into the floodplain.

As FEMA updates Flood Insurance Rate Maps to show the new special flood hazard areas (SFHAs) behind previously accredited levees located throughout many of the Sacramento Valley's agricultural areas, sustainability of Sacramento Valley agriculture has become a major concern. There are two primary impacts when an agricultural area is mapped into an SFHA: land use requirements for elevating or floodproofing new and substantially improved structures; and a requirement to purchase a high cost flood insurance policy for each structure with a federally backed mortgage.

Application of the National Flood Insurance Program (NFIP) is significant disadvantage to farmers. Certain provisions of the NFIP, either original or from amendments, work well for suburban or urban communities, but are financially challenging for farmers, often removing the benefits of the program that would otherwise exist. Section 209, 210, and 402 came out of work done on H.R. 2170 (115th Congress; and the predecessor bill to H.R. 830), in which local representatives worked with FEMA senior leadership and FEMA's drafting service. The result is sensible legislation that lifts the unfair burden on farmers while still allowing the successful implementation of the NFIP. Sections 209, 210, and 402 of H.R. 3167 made three challenges:

<u>Challenge</u>

The minimum policy size and the statutory implementation of surcharges are burying farmers. Congress required an annual $250 surcharge for each commercial NFIP policy to repay the NFIP debt. But each ag structure requires a separate policy and a separate surcharge. Thus, farmers can easily have 10 structures, requiring $2,500 in annual surcharges. Layered on top of that, many ag structures are worth less than the minimum available NFIP policy, and these structures are sometimes worth less than the minimum deductible, requiring farmers to pay for many policies for which they get no benefit.

<u>Solution</u>

Section 402 of H.R. 3167 would have allowed bundling of structures under a single policy to allow farmers to use policies the way they were intended.

<u>Challenge</u>

The NFIP's prohibition on new or remodeled ag structures is preventing ag operations from adapting to the new economy. The NFIP sensibly precludes the construction of new structures in the floodplain, pushing people to build in fully protected areas. But farming structures need to be where the farms are located, which is often in the floodplain, and farmers need the ability to expand their operations to remain competitive in the global farming economy with remodeled or new facilities to support farming.

Solution

Section 210 of H.R. 3167 would have allowed counties to grant variances for new or expanded facilities when it is impracticable to elevate or floodproof the structure.

Challenge

The NFIP is often charging farmers rates that don't reflect actual risk. Many farms that exist behind levees don't have at least 100-year protection, leaving them in the floodplain. But these levees still provide some level of protection, resulting in some leveed basins having not flooded in 50 to 75 years. However, under statute FEMA is charging farmers the same rate for structures located behind these levees as it does for structures next to a river with no levee in place.

Solution

Section 209 of H.R. 3167 would have provided the statutory authority for a levee zone, where FEMA sets rates based on the actuarial risk of the leveed basin.