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 essential from a national security perspective. However, 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 are irrelevant 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 is not practicable.

Language addressing each of these issues was included in the bill that passed the House Financial Services Committee in the 117th 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's 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, the 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.

The application of the NFIP is significantly disadvantaging 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 of H.R. 3167 came out of work done on H.R. 2170 (115th Congress; and predecessor bills), 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 changes:

Challenge #1

The minimum flood insurance policy size and the statutory implementation of surcharges to reduce the NFIP debt are burying farmers. Congress required an annual $250 surcharge for each commercial NFIP policy. 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, before even paying for policies. 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 are provided no benefit.

Solution #1

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.

Challenge #2

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 their homes 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 #2

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.