



Oregon

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September 18, 2013

RE: Implementation of the Biggert-Waters Flood Insurance Act of 2012: One Year After Enactment

Good morning Chairman Johnson, Ranking Member Crapo, and members of the committee. I am Christine Shirley, National Flood Insurance Program Coordinator for the State of Oregon. I am pleased to offer testimony on behalf of Oregon's 34,700 NFIP policy holders, and the estimated additional 150,000 buildings owners in Oregon who do not have flood insurance, but probably should because their buildings are located in the Special Flood Hazard Area.

Since April 2, 2013, soon after the National Flood Insurance Program (NFIP) announced implementation of section 100205 of the Biggert-Waters Flood Insurance Act of 2012 (Reform Act), we have made over two dozen presentations to land use planners, real estate agents, surveyors, and the public about NFIP premium rate and rule changes brought about by the Reform Act. I am here today to give you a field report. I will touch on outreach, affordability and mitigation. Let me say right away fear and confusion about the reforms are prevalent among professionals and the public alike. I will speak more about that later. First I want to explain a little about how Oregon implements the National Flood Insurance Program.

The NFIP Supports Oregon's Planning Principles and Goals

The Department of Land Conservation and Development (DLCD), the State's land use planning agency, is also Oregon's NFIP coordinating agency. DLCD's guiding principles are to:

- Provide a healthy environment;
- Sustain a prosperous economy;
- Ensure a desirable quality of life; and
- Provide fairness and equity to all Oregonians.

Since the mid 1970's the National Flood Insurance Program has played an important role in support of these principles. For those unfamiliar Oregon's statewide land use planning program, it originated in 1973 to provide protection of farm and forest lands, conservation of natural resources, orderly and efficient development, coordination among local governments, and citizen involvement. This is accomplished by requiring city and county governments to adopt comprehensive plans that address each of 19 statewide planning goals. Goal 7 directs counties and cities to adopt comprehensive plans that reduce risk to people and property from natural hazards. Participation in the NFIP satisfies Goal 7's requirement to address flood

hazards. As a result, virtually all of Oregon's residents have access to NFIP flood insurance (only 2 very small cities newly mapped and with minimal flood risk have yet to participate in the NFIP).

Development of Accurate Flood Insurance Rate Maps Requires Sufficient Funding

The NFIP's Flood Insurance Rate Maps (FIRMs) provide the basis for Oregon cities and counties to identify and manage development in floodprone areas. By and large, over the years, we have found the FIRMs to reasonably depict where flooding is most likely to occur. We are confident that refined modeling, cartographic, and analysis techniques implemented through the RiskMAP program, and by Oregon's own Department of Geology and Mineral Industries as a Cooperating Technical Partner with FEMA, will result in even more accurate and informative FIRMs and derivative risk analysis products.

Such map accuracy requires sufficient funding. Appropriations for mapping have been reduced by more than half from the 2010 level of \$220 million. The Administration's budget request for FY 2014 was \$84 million. The Homeland Security Appropriations bills (one passed by the House; the other reported out of committee in the Senate) both provide \$95 million. While this reflects Congressional recognition of the importance of accurate flood maps, it is, nevertheless, still a major reduction. **We urge Congress to increase appropriations for flood mapping back to 2010 levels as soon as possible.**

Poor Risk Communication and Outreach Undermines Trust

Our problem is not so much with the quality of FIRMs, but rather with risk communication. Many people who reside in Special Flood Hazard Areas have never experienced flooding at their location and they simply don't believe it's possible, so they question the veracity of the FIRMs. Sometimes they're right. DLCD regularly counsels landowners on how to use FEMA's Letter of Map Change process to refine Special Flood Hazard Area boundaries on their properties.

One year after enactment of the Reform Act of 2012 our risk communication challenge has increased, not only because of changes brought about by the Act, but also by how the NFIP has explained and implemented section 100205: Reform of Premium Rate Structure. It appears to us that NFIP intends to rely on flood insurance agents to disseminate information about changes brought about by the Reform Act. We find this communication model flawed for several reasons:

- Training for NFIP Write-Your-Own flood insurance agents is woefully inadequate;
- Too many Oregonians with buildings located in Special Flood Hazard Areas are not insured by the NFIP and therefore lack a means to obtain information about the consequences of the Reform Act;
- Important professional groups, particularly surveyors and real estate agents, have not been informed by the NFIP of impending changes;

- Likewise, local government officials and staff have not been provided with digestible and sufficient information to address their citizens' concerns or assess their own vulnerabilities;
- NFIP has not provided information to the public that allows building owners to make informed decisions about their individual situations.

As a result, building owners and the general public are receiving contradictory and confusing information, which has had the effect of undermining the credibility of the NFIP. This unfortunate side effect has made it even more difficult for NFIP Coordinators like myself to communicate the benefits of carrying flood insurance. Let me address each of these bullet points in turn:

NFIP Agent Training

Training for agents that sell NFIP flood insurance is woefully inadequate. Many agents are not able to explain to their customers how the NFIP works and most are not able to advise clients on how to reduce flood insurance premiums by making simple building modifications.

NFIP sponsored exactly one instructor-led flood insurance agent training in Oregon in 2013. Unfortunately I heard from insurance agents who attended the class that this general training did not address Reform Act section 100205 changes in sufficient detail to allow them to effectively advise clients on its consequences.

Outreach about availability of instructor-led classes and webinars also is lacking. DLCD learned just days before that the above mentioned training was about to be canceled due to lack of participation. Fortunately, we convinced our Insurance Division to announce the class to their mailing list, filling the class. Likewise, H2O Partners, NFIP's flood insurance training contractor, has offered webinars that cover section 100205 changes but these have not attracted enough agent participation in Oregon.

NFIP must be provided with sufficient resources to develop a comprehensive outreach and training program; one that does not passively rely on websites to notify Write-Your-Own agents of training opportunities. More training opportunities must be provided because well trained agents bolster the credibility of the NFIP.

Reliance on Agents to Inform their Clients

It is an unfortunate truth that flood insurance take-up rates in Oregon, and nationwide, are too low. Relying on insurance agents to get the word out about changes brought about by the Reform Act ignores a large segment of the affected population. **NFIP needs to develop public service announcements and printed material suitable for wide distribution to traditional and non-traditional media outlets.**

Outreach to Surveyors, Real Estate Agents and Other Professionals

Real estate agents and surveyors are on the frontline of implementing Reform Act changes. These professionals speak directly with building owners, often before an

insurance agent does. DLCD has found these professionals to be interested and receptive to information about the Reform Act. So much so that our technical support to NFIP communities has suffered as a result of numerous requests to speak at their professional gatherings. Word of mouth has kept us busy since April 2, 2013 during which time we have addressed 15 real estate associations and 3 surveyor chapter meetings. We have started coordinating with statewide professional organizations to take over this training function so that we can get back to our regular NFIP job duties. **NFIP needs reach out to professional groups with literature suitable for distribution to their clients as well as with training materials and opportunities.**

Outreach to Government Officials and Staff

While it might not be obvious why government officials and staff need to know about flood insurance reform, in fact, because they manage floodplain development per the NFIP, they are often the first people building owners call to explain why flood insurance costs are increasing and what can be done to reduce them. In addition, any loss of property values brought about by the Reform Act will be felt directly via decreased property tax revenue, and even increased foreclosure rates. Oregon's assessors offices have expressed interest in learning more about the NFIP reforms, as have city and county land use and planning offices. NFIP Coordinators are the best conduit to local government, however, we have had to spend an inordinate amount of time deciphering the Write-Your-Own Bulletins intended for insurance agents to explain the consequences of the Reform Act to local government. While these Bulletins are the most reliable source of information they are also full of jargon. Read out of context they can be confusing and misleading. **NFIP needs to develop easy to understand educational material specifically targeted to local government officials and staff.**

Public Outreach

Much of the specific material NFIP has prepared for the public about consequences of the Reform Act has been directed to those affected by Super-storm Sandy. This and other material produced by NFIP has taken a worst-case-scenario approach to explaining the consequences of not elevating flood-damaged buildings. For example, in a widely circulated factsheet NFIP estimated future flood insurance costs using the maximum amount of building plus contents insurance available for residential structures, even though most building owners will not purchase this much insurance. We find this material to be unnecessarily alarming. People stop reading as soon as they see that flood insurance costs could exceed \$10,000 per year. Until recently, with public release of NFIP's *Specific Rating Guidelines* on September 5, it was virtually impossible for even an experienced flood insurance agent to provide more realistic information about potential flood insurance costs under the Reform Act when a building owner's lowest floor was 2 or more feet below base flood elevation. We applaud release of these *Guidelines* as this information will help us develop realistic cost ranges for the types of flood risks and building values typical for Oregon. The *Guidelines* also help us better understand what drives costs up and what building owners might do to reduce these costs. DLCD understands how difficult it is to present information about costs in

the absence of specific information about a building's characteristics and how easy it is to create false expectations. **Nonetheless, we recommend that NFIP develop public outreach material that more accurately reflects the range of costs typical of certain classes of buildings – or at least work with States to help us develop such material tailored to our demographics and building values.**

Flood Resilient Oregon

Problems with the Reform Act go beyond those associated with education and outreach. The Reform Act does not sufficiently address affordability or mitigation of flood risk. We fear that, together, these deficiencies will cause Oregon to be less resilient to flooding than before the Reform Act was passed.

Oregon is committed to being a flood resilient state; a strong National Flood Insurance Program helps us achieve our resiliency goal because insured residents don't require Federal disaster declarations to begin recovery. Even in the event of a Federally declared disaster, we've learned that well insured communities recover faster. As such we support efforts to move the NFIP to sound financial footing. We are concerned, however, that the rate increases required by section 100205 will not help Oregon become more flood resilient unless they are accompanied by programs to assist low- and moderate-income families afford adequate coverage and more attention is paid to mitigation.

New Construction in the Special Flood Hazard Area does not Support Resiliency

Oregon's mitigation strategy emphasizes acquisition. Acquired buildings are demolished and the land maintained as permanent open space, eliminating the potential for future flood damage and displaced families. It is discouraging to find a couple years later a new building being constructed in the Special Flood Hazard Area only a few hundred feet away from an acquired property. **We urge Congress to pass legislation that limits the availability of flood insurance to existing buildings. NFIP flood insurance should not be offered to new development in the Special Flood Hazard Area.**

Unaffordable Flood Insurance does not Support Resiliency

Architects of the Reform Act picked what looked like low-hanging fruit – phasing out and removing subsidies to increase revenue on a class of properties that suffer disproportionate losses. This strategy alone may not result in anticipated revenue growth because phasing out subsidies for pre-FIRM buildings could actually discourage purchase of NFIP flood insurance. We've already had inquiries from buyers about where to buy private insurance. At least one jurisdiction in Oregon is contemplating offering a private community-based flood insurance program.

Furthermore, in some areas of Oregon, those characterized by a high concentration of older buildings located in the Special Flood Hazard Area, the resale real estate market is frozen. Buildings are not selling until asking prices are dramatically lowered, attracting all-cash buyers who purchase floodprone property at fire-sale prices and then don't purchase flood insurance.

Sadly, not all of these cash buyers have the resources to self-insure against potential losses, leaving Oregon less flood resilient.

Affordability is not only a problem for approximately 2,500 insured non-primary residences, commercial buildings and severe repetitive loss buildings in Oregon. Nor is it only an issue at the approximate 5,700 insured pre-FIRM buildings expected to be sold in the near future. An estimated 35,000 pre-FIRM buildings in Oregon located in the Special Flood Hazard Area do not carry NFIP flood insurance. Owners of these buildings are already receiving notices from their lenders demanding that they purchase flood insurance within 45 days at full risk rates. Elevation Certificates also are needed from licensed surveyors at a cost of \$500 to \$1,000 each to properly rate the flood insurance policy. Many of these pre-FIRM buildings' lowest floors will be below base flood elevation resulting in expensive flood insurance. These unexpected costs have the potential to force families from their homes and businesses to close. This scenario is the result of the Reform Act's increased penalties for lender non-compliance with mandatory purchase requirements, but without sufficient attention paid to the consequences of unaffordability.

As these examples illustrate, the complex issues surrounding affordability were not taken into account by the Reform Act. Section 100236 only requires a study on affordability. **We urge the NFIP and National Academy of Sciences to complete the affordability study mandated by the Reform Act as quickly as possible. In the meantime we urge Congress and the NFIP to consider implementation of a temporary means-tested voucher program for low- and moderate-income households such as that described in the recent Wharton School, University of Pennsylvania report "Addressing Affordability in the National Flood Insurance Program: Means-Tested Vouchers Coupled with Mitigation Loans."** Congress also should consider acting on House passed bill providing for study of the feasibility of community based group flood insurance policies (H.R. 1135).

Mitigation Reduces Flood Losses and Increases Resiliency

As important as affordability is, the ability to purchase flood insurance does not reduce flood losses. An insurance settlement to repair flood damage only ensures future losses. NFIP and FEMA must focus attention on mitigation.

Oregon's experience suggests that it takes too long and consumes inordinate staff time to complete mitigation projects using FEMA grant programs. We recognize that this is not exclusively an NFIP issue, however, NFIP needs to think creatively about how to encourage mitigation before floods occur. For example: NFIP could encourage building owner to undertake building elevation projects on their own by refunding premiums back five years upon completion of the project. Without such incentives it could be difficult for building owners to both pay for flood insurance and mitigation. Loan or grant programs to provide upfront costs could be provided to low- and moderate-income families in lieu of premium refunds. NFIP would benefit by reducing risk exposure.

Flood mitigation grants offered by the NFIP have traditionally focused on 100% solutions: elevate the lowest floor above the base flood elevation, or acquire and demolish flood-damaged buildings. Oregon has completed hundreds of such projects over the years. They work, but elevations and acquisitions are expensive, time consuming, and are difficult for States and local government to administer. We can only accomplish a handful of such projects each year.

NFIP should promote innovations such as partial mitigation. Flood vent retrofits, moving utilities out of basements, or filling below grade crawlspaces can save the insured hundreds if not thousands of dollars per year and also reduce NFIP risk exposure. Oregon has calculated that partial mitigation is cost effective for many pre-FIRM buildings, even if these mitigation projects do not result in the lowest floor being elevated above the base flood elevation. Partial mitigation is inexpensive and is cost effective even if a building is fully mitigated later on. **NFIP should develop a means-tested grant program to facilitate such partial mitigations, perhaps tied to a voucher program that assists with annual flood insurance costs.**

Unfair Renewals at Full-risk Rates on Policies Purchased between July 6, 2012 and September 30, 2013

It's bad enough not being able to sell a building because of buyer's fear of high flood insurance costs. What's worse is having purchased a pre-FIRM building between the time the Reform Act was signed on July 6, 2012 and when new rates go into effect on October 1, 2013. According to NFIP Write-Your-Own Bulletin W-13016, published March 29, 2013, purchasers of pre-FIRM buildings located in the Special Flood Hazard Area were able to buy (and will continue to be able to buy until October 1) subsidized flood insurance policies, but these will renew at full risk rates, with premium increases amounting to possibly thousands of dollars per year. This implementation strategy denied those who purchased pre-FIRM buildings in the Special Flood Hazard Area between July 6, 2012 and March 29, 2013 any ability to make an informed decision about the long-term financial consequences of their purchase. No party in the deal could have known that these subsidized policies would renew at possibly very expensive full-risk rates. Even those who purchased pre-FIRM buildings after publication of NFIP's March 29, 2013 Bulletin can make the case that they were denied the ability to make an informed decision because of the NFIP's limited outreach to insurance agents and real estate professionals.

DLCD has already received tearful phone calls from buyers who purchase pre-FIRM buildings last summer and are now facing unaffordable flood insurance renewal costs. The Palmer family in Eugene summed it up like this, "It's one thing to buy a home knowing what you are in for. It's another to have an act of god cause a change that no one could have anticipated. But it's simply wrong to change the terms of an insurance contract at renewal in a manner that could force us out of our home when no flood event has taken place." **We are generally not in favor of delaying implementation of section 100205 the Reform Act, except for on renewals of new policies purchased as a result of a real estate transaction made on or after July 6, 2012 and before October 1, 2013. These policy holders should, as a matter of fairness, be allowed to keep their subsidy unless and until they suffer a flood loss.**

Aggrieved NFIP Customers Lack a Venue to Resolve Problems

NFIP policyholders with rating issues have limited access to a dispute resolution process. Although each FEMA regional office has an insurance specialist on staff, this person is not easily accessible to the insured. **We urge NFIP to establish a visible ombudsman office to field rating disputes. Congress should fund FEMA to create such an office if NFIP lacks the authority or resources.**

Thank you for this opportunity testify. Please do not hesitate to contact me at 503-373-0050 ext 250 Or christine.shirley@state.or.us should you have any questions or wish to follow up with any of our observations or suggestions.

Respectfully submitted,

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