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National Flood Insurance Reform or How to Lose Your House to Flooding Without Water

The Federal Government's response to Hurricane Katrina was to design a larger, 100 year computer storm to better protect people with their activity in the floodplain. This meant the levee systems around New Orleans were going to receive billions of federal dollars to improve the heights of the levee to the new computer generated storm levels. It also meant that our system in south Lafourche, 30 miles south southeast of New Orleans, would get no money to improve its levees and have its 100 year certified levee decertified overnight.

To FEMA and NFIP, it means the people living in the flood protection system in south Lafourche would be subject to a new base flood elevation that would be determined with computer modeling, ignoring a substantial and successful flood protection system.

The new flood maps resulted in flood elevations rising from 3' to 14'. The parish filed both a technical and a scientific appeal because new construction would have to be 10' to 12' above the ground under the new maps.

With the decertification of the levee, the Flood Insurance Reform Act of 2012 would force all insurance rates to an unfair and unaffordable level.

This community continues to record some of the lowest unemployment rates in the country and maintains infrastructure which provides critical support to a sizable amount of the country's oil needs. In addition to the tremendous amount of oil support by the community, the Federal Treasury receives billions of dollars in oil leases and royalty payments that result from the support of this community. This place is not depleting the Federal Treasury; in fact, the treasury is bolstered by the work from this area.

This community doubled the local property tax in 1996 to continue building its levee system after the federal project's funding was reduced dramatically by political fighting in

Washington. After Katrina, the community again voted on a tax. The tax was a one penny sales tax which won approval by 82% of the vote. This community has continued to tax itself to address the flood risk while the Federal government continues to retreat from its agreements.

At this time, inaccurate mapping and misguided financial policy is punishing a community that works for the good of the economy and the National Treasury.

Biggert-Waters is a tax and spend bill to accomplish fiscal balance. Over the past 42 years the program has needed changes to make it a fair program. An inefficient program changed to an unfair program is still not good for our country. The money was spent inefficiently, and Biggert-Waters forces payment of the flood insurance program's deficit unfairly. It is more than unfair, it is absurd. **Absurd to the point that families who never had their house flood will lose them to a disaster not of water, but of governmental incompetence.**

This is the story of one community, but although the details are different the problem is similar in Dallas, Texas.

In March 2009, Dallas became one of the first U.S. cities to receive an "unacceptable" rating of its floodway system from the U.S. Army Corps of Engineers. In essence, the rating meant the Corps was withdrawing its support for the flood system's continued 100-year flood accreditation from the Federal Emergency Management Agency. As a result, FEMA would begin the de-accreditation process by remapping the area as if the levees did not exist. By law, the city had two years to analyze its levee system, confirm or deny the 232 deficiencies cited in the Corps' periodic inspection report, and, if deficiencies were discovered, restore its levees to 100-year flood protection levels before FEMA issued the new map. Dallas was in a race against the clock to prove that the 23-mile Trinity River levee system, that makes up the Dallas floodway and protects much of downtown, was acceptable to reduce risk to the metropolitan area.

Remapping the area and placing much of it in the 100-year flood plan without acknowledging the levee system would be catastrophic:

- Nearly 17,000 acres of downtown property, valued at more than \$7 billion, would be rezoned as flood plain.
- Deflated property values and ballooning insurance premiums would force many homeowners and businesses to abandon the area.
- Cost-prohibitive building codes would make enticing new businesses and residential developers to the area nearly impossible.
- Prime real estate values would drop by as much as 80 percent, reducing the amount of property taxes collected. Revenues would be hit hard.
- The City would have to wait decades to realize its investment in the area's long-term vision.

At best, deferring action would result in a dramatic loss of economic development. In addition, all development projects in the City's master plan would be placed on hold indefinitely. The worst case scenario was that the deficiencies would result in a devastating loss of life. Response would need to be immediate and aggressive.

Dallas' system is indicative of a larger problem. Unfortunately, Dallas isn't alone:

- According to FEMA, only 7 percent of the country's 100,000 miles of levees are adequate to protect their communities from a 100-year flood event.
- More than 250 levee systems in 16 states have received unacceptable ratings. If these jurisdictions cannot bring their levees up to standard, FEMA could redraw their flood plains, too.

The unacceptable ratings are a result of a stricter Levee Safety Program instituted by the Corps in the wake of Hurricane Katrina. According to the program, the Corps has specific authority to routinely inspect levees to verify the designs of the levees are up to the new standards and to ensure local sponsors are performing their operations and maintenance responsibilities in order to determine eligibility for the Rehabilitation and Inspection Program. If a levee system does not meet the new standards or the local sponsor is found negligent in its responsibilities, the jurisdiction can lose eligibility for federal assistance should the levees fail.

Reaccreditation is an extensive, complex and technical process that can be extremely expensive to complete. Reinstating the Trinity River levees meant the City of Dallas would be the first to embark upon the re-accreditation process and would have to expend millions of dollars of city funds to make deficiency corrections or to prove to the Corps and FEMA that the findings of the periodic inspection were not substantiated and the levee system is acceptable. The City of Dallas invested over \$35M to compile all of the necessary documentation, analysis, modeling, reports, designs, and expert opinion required for the Levee Remediation Plan and subsequent FEMA Accreditation Package. These plans and packages contained documents that communicated and supported the city engineer's overall conclusion: While some deficiencies from the USACE periodic inspection report of the levee system did exist and needed to be addressed, **the majority of the major issues identified in the Corps' periodic inspection were not as severe as first thought.** Ultimately, relatively minor seepage repairs were proposed by the city's engineer during the process, but were only done out of an overabundance of caution. These repairs were greatly reduced from the initial proposed fixes that were discussed by the Corps in the earliest stages of the process following the release of the unacceptable ratings in the periodic inspection report of 2009.

In February 2012, the City received the nod to proceed with the seepage repairs, and the Corps approved the Section 408 package, including the reduced scope of remediation. The highly technical assessment and comprehensive approach saved the City of Dallas hundreds of millions of dollars in unnecessary construction costs.

Through effective leadership and a proactive approach, the City of Dallas saved 17,000 acres of prime downtown real estate from being reclassified as residing within a 100-year flood plain. This unprecedented course of events makes the City of Dallas the first major metropolitan area to be de-certified by the Corps, de-accredited by FEMA, successfully navigate the Corps' Section 408 process, begin 100-year levee remediation construction and complete the Federal Emergency Management Agency's extensive levee re-accreditation process.

For the local sponsors of the more than 250 levee systems that received unacceptable ratings of their levee systems from the Corps in the past six years, there is now a definitive path for navigating the reaccreditation process and a city that proves it can be done successfully.

In conclusion, if Congress chooses to change the future of communities because of the complexities of flooding and flood risk, there is fairness in that concept. **It is not fair business practice to penalize people who followed the rules, because you, the government, mismanaged the program.** Sections 205 and 207 of Biggert-Waters may be the way Congress sees the future, but it is a travesty to use it to deal with the past. There are many fair ways to solve the fiscal problem in the flood program if Congress is willing to work hard enough to find them.



Left to right front: David Miller-NFIP Director, Windell Curole-General Manager South Lafourche Levee District, Senator Mary Landrieu and Senator David Vitter.

The structure on which Mr. Miller is standing protects up to 16 feet of storm surge with steel and concrete. FEMA computer models do not recognize this structure in their flood modeling.

Location: Leon Theriot Lock, Golden Meadow, LA

Photo courtesy Office of Senator Mary Landrieu