October 4, 2017

The Honorable Garret Graves
Chairman
Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Grace Napolitano
Ranking Member
Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

Re: Submission for the Record of the Sept. 26, 2017 Hearing: Supplemental Response Concerning Costs of Compliance with the Federal Flood Risk Management Standard

Dear Chairman Graves and Ranking Member Napolitano:

Thank you for the opportunity to testify on behalf of Natural Resources Defense Council (NRDC) before the Subcommittee on Water Resources and Environment on September 26, 2017, at the hearing entitled "Building a 21st Century Infrastructure for America: Water Stakeholders' Perspectives."

Please accept this letter for the record as a further response to a question asked by Chairman Graves concerning the costs of compliance with the Federal Flood Risk Management Standard (the "Standard"), which President Trump revoked in August.[1]

As explained in my written testimony, the Standard was established to ensure federal agencies account for current and future flood risk when using taxpayer dollars to fund the building or

[1] Trump Executive Order revoking flood protection standards: https://www.whitehouse.gov/the-press-office/2017/08/15/presidential-executive-order-establishing-discipline-and-accountability.

rebuilding of infrastructure in floodplains.[2] In the wake of a natural disaster, impacted communities must be rebuilt safer and stronger. The Federal government, when aiding impacted communities to recover, should not simply seek to replace damaged infrastructure, but to rebuild it to ensure that such infrastructure will be safer from the next storm. Otherwise, we, as nation, are rebuilding in a way that leaves communities vulnerable, putting people and property at risk, and exposing the American taxpayer to great disaster costs. To avoid this outcome, the Standard required federally-funded infrastructure, like drinking water and wastewater treatment facilities, to be built with a higher margin of safety against flood disasters.

Chairman Graves asked how communities can afford to rebuild to the Standard after suffering damage from a flood or other natural disaster.

I write to supplement my response to that question, by explaining that an impacted community is not solely responsible for the increased costs of rebuilding smarter – e.g., rebuilding to meet the Standard – after a disaster. Rather, the Federal government is responsible for paying for paying most of a community's added costs. Per the Stafford Act, the Federal Emergency Management Agency (FEMA) must pay, at a minimum, for 75 percent of a rebuilding project's costs,[3] which would include the cost to build to a higher Federal standard.[4] Moreover, the Stafford Act's 75 percent/25 percent cost share arrangement can be adjusted, especially in the aftermath of truly devastating natural disasters.[5] In such instances, the Federal government's share can be raised to 90 percent.[6]

This arrangement of covering the costs of higher standards is common practice. For example, FEMA's Hazard Mitigation Grant guidance explicitly requires higher rebuilding standards. Per the guidance document, FEMA uses the American Society of Civil Engineers (ASCE) Standard 24-05 *Flood Resistant Design and Construction* or its equivalent as the minimum design criteria for all Hazard Mitigation Assistance (HMA) funded structure elevation, dry flood proofing, and

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[2] Obama Executive Order 13690 establishing flood protection standards: https://obamawhitehouse.archives.gov/the-press-office/2015/01/30/executive-order-establishing-federal-flood-risk-management-standard-and-

[3] 44 C.F.R. § 206.47(a).

[4] *Id.* § 206.201(i) (defining permanent work as "restorative work that must be performed through repairs or replacement, to restore an eligible facility on the basis of its predisaster design and current applicable standards"). *See* Federal Emergency Management Agency, FP 104-009-2, *Public Assistance Program and Policy Guide*, 7 (April 2017) (stating Public Assistance Grants must comply with all relevant statute, regulations, or executive orders); *see also* Federal Emergency Management Agency, *Hazard Mitigation Assistance Guide, 34* (February 2015) (HMA programs, and grants awarded pursuant to these programs, must conform to 44 CFR Parts 9 and 10 (or FD 108-1) and with all applicable EHP laws, implementing regulations, and EOs, including but not limited to NEPA, the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), EO 11988 (*Floodplain Management*), EO 11990 (*Protection of Wetlands*), and EO 12898 (*Environmental Justice*)).

[5] 44 C.F.R. § 206.47(b)

[6] *Id.*

mitigation reconstruction projects in flood hazard areas.[7] More simply, Hazard Mitigation Assistance projects must be designed to ASCE24 standards for infrastructure located in flood hazard area, and as such, FEMA pays the Federal share of the higher costs.

Thus, impacted communities are not forced to meet a safer rebuilding standard without financial assistance. The federal government pays for a majority, and in some cases, all, of the additional costs. The result is a community will have infrastructure that is safer, infrastructure that can better perform its underlying tasks, such as maintain water/sewer service during a crisis, and infrastructure that will last longer, reducing the costs to the community of having to rebuild again and again.

Finally, it is important to recall that, while rebuilding safer and stronger may cost more than rebuilding to the status quo, in the long-run, such a rebuilding strategy saves money for both the community and the Federal government. Pre-disaster mitigation efforts, which include building to a higher standard, are proven to reduce the associated costs of post-disaster recovery. The benefit-cost ratio of FEMA Hazard Mitigation grants is illustrative of this assertion: every dollar spent on a FEMA hazard mitigation grant produced, on average, four dollars of benefits—a significant return on public dollar expenditures.[8]

I would be pleased to provide more information on this topic or to put your staff in touch with NRDC's top experts on this specific topic.

Thank you again for the opportunity to testify and for your consideration of this supplemental response.

Sincerely,

Lawrence Levine
Senior Attorney

[7] *See*, Federal Emergency Management Agency, FEMA Policy-203-074-1, *Minimum Design Standards for Hazard Mitigation Assistance Projects in Flood Hazard Areas,* 1 (April 2014).

[8] Adam Rose, et al., *Benefit-Cost Analysis of FEMA Hazard Mitigation Grants*, 8(4) NAT. HAZARDS REV. 97, 98 (2007).