

Transcript of the Testimony of
**Field Hearing before the Committee on
Small Business and Entrepreneurship**

Date taken: May 1, 2015

**How Flood Insurance Rate Increases and Flood
Mapping Policy Changes Will Impact Small Businesses
and Economic Growth**

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HOW FLOOD INSURANCE RATE INCREASES
AND FLOOD MAPPING POLICY CHANGES
WILL IMPACT SMALL BUSINESSES
AND ECONOMIC GROWTH

FIELD HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
AND ENTREPRENEURSHIP

UNITED STATES SENATE

Friday, May 1, 2015
Homer Hitt Alumni Center
University of New Orleans
2000 Lakeshore Drive
New Orleans, Louisiana 70148

1 COMMITTEE ON SMALL BUSINESS
2 AND ENTREPRENEURSHIP

3 DAVID VITTER, Louisiana
4 Chairman

5 BILL CASSIDY, Louisiana

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23 Thibodaux, LA

24 DAVID McKEY 55
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26 Coldwell Banker One
27 Baton Rouge, LA

28 JERRY PASSMAN 50
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30 Louisiana Home Builders Association
31 Passman Homes, Inc.
32 Baton Rouge, LA

33 REPORTED BY:

34 LINDA G. GRIFFIN, CCR, RPR

1 P R O C E E D I N G S

2 CHAIRMAN VITTER:

3 Well, that's a pretty natural
4 segue into hearing from our witnesses, and
5 as I suggested, we have two panels of
6 witnesses today, two witnesses from the
7 Federal Government, who I will introduce in
8 a minute, and then following our discussion
9 with them, we'll have a second panel, three
10 witnesses from Louisiana, including those
11 representing the real estate market and
12 small business.

13 But first we'll hear from Brad
14 Kieserman. Brad serves as the FEMA Deputy
15 Associate Administrator for Insurance.
16 Prior to serving in this position, he was
17 Acting Assistant Administrator for Recovery
18 and as FEMA Chief Counsel.

19 Brad is a graduate of State
20 University of New York. Received his JD
21 magna cum laude from Columbus Law School at
22 Catholic University, in DC.

23 And following Brad, we'll hear
24 from Roy Wright. Roy is a native of
25 California and serves as FEMA's Deputy

1 Associate Administrator for Mitigation,
2 where he's responsible for FEMA's risk
3 analysis and risk reduction programs.

4 Roy holds a Master's of Public
5 Administration from George Washington and a
6 Bachelor's in Political Science from Asuza
7 Pacific.

8 His joint testimony, with
9 Mr. Kieserman, will discuss the impacts of
10 NFIP on small businesses. And, again, Bill
11 and I will specifically ask them to address
12 the Executive Order. Thank you all both for
13 being here and for your work, and Brad,
14 we'll start with you.

15 MR. KIESERMAN:

16 Chairman Vitter and Senator
17 Cassidy, thank you very much for having
18 Deputy Associate Administrator Wright and I
19 here today, and I really appreciate the
20 opportunity to come and talk about flood
21 insurance with you all, and we would ask
22 that our statement be entered into the
23 record.

24 So, I guess, you heard the Senator
25 talk for a moment about my bio. The most

1 important fact about my bio is that I was
2 stationed here for two years and lived in
3 Jefferson Parish, and my oldest son was born
4 here. He referred to himself as the "Fresh
5 Prince of New Orleans." Never actually been
6 here as an adult, but we're working on that,
7 so we'll see.

8 So having lived here, I do think I
9 have a -- not just having lived here, but
10 having worked on the river for two years, I
11 think I have some understanding of the
12 complexity of the landscape when it comes to
13 flood insurance.

14 So let me begin. I have prepared
15 remarks, which I am not going to read. I'm
16 just going to chat with you all for a few
17 minutes. Then I'll turn it over to
18 Mr. Wright.

19 First of all, flood risk, as you
20 all know, is probably one of the most
21 significant hazards in the United States.
22 If you look from like 1980 to 2013, the
23 United States suffered more than \$260
24 billion in flood-related damages. That's
25 one of the reasons we have a National Flood

1 Insurance Program is because the market and
2 the industry really can't afford to provide
3 you, whether you're a small business or a
4 residence, with affordable flood insurance.

5 So all these concerns that you've
6 expressed about affordability are spot-on
7 and I thought that the Senators answered
8 your questions exactly as I would have
9 answered your questions. Better, in fact,
10 Senator Cassidy. So I think the
11 affordability issue is critical, right.

12 So this is why you have a National
13 Flood Insurance Program that was never
14 designed to be actuarially sound. It was
15 always, by design, meant to be a subsidized
16 program, and now, as we've gotten further
17 and further into the program, Congress has
18 determined that we need to move from
19 subsidized rates to actuarially sound rates,
20 and there's a lot of tension around this
21 issue and Senator Vitter was spot-on.

22 Congress heard what the people had
23 to say and slowed down the rate increases
24 and tried to make those more affordable, but
25 in the end, as I think you all know, the

1 rates are going up, and so the question is
2 how do we manage that and what protection
3 can you get from it and how can you mitigate
4 your risk.

5 I guess I would turn for a minute,
6 because this is a -- the hearing is focused
7 on small businesses. I do want to focus on
8 small business, for a second, and the reason
9 for that is small businesses, as you all
10 know, are the economic engines of our
11 community. The statistics vary a little
12 bit, but the best numbers I see tell me that
13 40 percent of small businesses affected by
14 floods don't reopen, and that's because they
15 can't afford to repair, to recover, their
16 merchandise is damaged, they lose their
17 customers, people move.

18 And so while a lot of what we do
19 is talk about the flood insurance program as
20 it relates to residences -- and that's
21 because over 91 percent of the policies in
22 the United States are residential-type
23 policies -- but the fact of the matter is,
24 here in Louisiana, here in Louisiana,
25 11 percent of the flood insurance policies

1 in the state are nonresidential policies.
2 They deal with businesses, churches,
3 schools.

4 So the small business issue is
5 particularly important here, and I know from
6 having lived here that many of you simply --
7 you can't relocate because your business is
8 the water.

9 The gentleman earlier talked about
10 oil and gas, the chemical industry, the
11 seafood industry, fishermen -- and I was in
12 the Coast Guard when I lived here. I was a
13 buoy tender. So I really couldn't relocate.
14 I needed to be near the boat and get out on
15 the water. So we understand that.

16 But that means that we've got to
17 figure out how to price that risk and how to
18 make those prices affordable, and that's a
19 challenge.

20 The National Academy of Sciences
21 is working on several reports right now on
22 affordability and they have issued the draft
23 of the first report, and they're going to
24 produce a second report that will help us
25 understand how to get through the

1 cost-benefit analysis.

2 But it's a challenging issue and I
3 don't want to come here and make it seem
4 like there's simple answers. I do believe
5 strongly, though, that your elected
6 representatives are aggressively working
7 these issues. You see that they both have
8 an incredible command of the issue here, and
9 we, in the Executive Branch, are here to try
10 to make sure that we execute the law in a
11 way that protects the public and the
12 community and also in a way that gets you
13 affordable rates.

14 So I'll be happy to take any
15 questions you have and then I'll turn the
16 mike over to Mr. Wright.

17 CHAIRMAN VITTER:

18 Great, thank you. Roy.

19 MR. KIESERMAN:

20 Thank you, Senator.

21 MR. WRIGHT:

22 I appreciate the opportunity to
23 join you, Chairman Vitter and Senator
24 Cassidy, and like Mr. Kieserman, I'm
25 committed to make sure that we're

1 collaborating with you all and the
2 communities to make sure that we deliver on
3 our commitments through the National Flood
4 Insurance Program.

5 Mr. Kieserman spoke to the
6 elements of insurance and affordability.
7 I'm really here on the other complement to
8 that program related to the flood hazard
9 mapping and floodplain management and how we
10 deal with mitigation grants and incentives.

11 At NFIP, when we talk about this,
12 this is 22,000 communities across the
13 country that are in partnership with us
14 related to this. We've partnered with them.
15 We've seen this as really some of the
16 charges that Senator Vitter led us through
17 that led into putting in place revisions to
18 our Levee Analysis Mapping Process that we
19 did three years back, where we slowed down
20 that mapping process. We put in place those
21 local levee partnership teams and we're
22 ensuring that the lines on the map reflect
23 the best data from the community.

24 And we know that the risk changes,
25 and as it changes, we see lines move and we

1 see structures come in and come out. In any
2 given year, we see, on average, about as
3 many come in as come out.

4 We have some updates happening in
5 Orleans and Jefferson Parish right now. As
6 those maps in Orleans Parish move forward,
7 over the next year, 77,000 structures are
8 going to come out of the Special Flood
9 Hazard area. They will no longer have that
10 mandatory purchase requirement. The risks
11 changed; our maps changed.

12 And so as we look at these
13 elements, we want to make sure that we have
14 worked with communities, we're reflecting
15 the risk, and we're preparing for what is to
16 come.

17 And so the law requires that, as
18 we lead these programs, we identify those
19 flood risks, we engage communities to
20 increase their understanding. We want to
21 make sure we're reflecting the best credible
22 data available. We look to set those kind
23 of standards related to future construction
24 in that area of known flood risk.

25 And we want to make sure that when

1 federal funds are used for projects, in
2 communities, that we do build them higher
3 and stronger so that the taxpayer doesn't
4 need to come back and pay for that same
5 building twice, and I think there's some of
6 those elements that we can share together.

7 And so, with that, I'll say thank
8 you, and we're available for your questions
9 on the topics throughout that we've talked
10 about this morning.

11 CHAIRMAN VITTER:

12 Great. Thank you both very much.
13 I'll get things kicked off and then we'll
14 turn to Senator Cassidy.

15 You both heard a lot of concern
16 about this Executive Order. What we're
17 talking about, just for everyone's benefit,
18 is an Executive Order by President Obama,
19 13690, and the corresponding Federal Flood
20 Risk Management Standards, that they would
21 be raised significantly and that this
22 Executive Order basically directs all
23 federal agencies to define the floodplain in
24 a different way than we have traditionally,
25 at the 100-year floodplain, and in a more

1 draconian way, either a floodplain based
2 upon, quote, "climate-informed science,"
3 closed quote, whatever that means, or No. 2,
4 a 500-year floodplain, or No. 3, expanding
5 the existing 100-year floodplain to add an
6 additional two or three feet of freeboard
7 elevation, which is a big deal.

8 Now, FEMA has said none of this is
9 going to impact NFIP, but under the terms of
10 the Executive Order, it's supposed to
11 include all federal grants, loans, and
12 federally-backed financing programs, like
13 FHA-backed single family mortgages.

14 Those two statements seem to be in
15 conflict. What are we missing?

16 MR. WRIGHT:

17 So when this Executive Order came
18 out, it put some new pieces in motion,
19 Senator Vitter, but it also went back and
20 amended an Executive Order from President
21 Carter, in 1977. And so what we were
22 directed to do --

23 CHAIRMAN VITTER:

24 Just as an aside, the fact that
25 we're building on a Carter Executive Order

1 does not give us great comfort either. I'm
2 sorry, I couldn't help myself.

3 MR. WRIGHT:

4 Fair enough. And so it is that
5 piece from 1977 that looks across all
6 federal action, and it then told agencies to
7 go through and look at the impact on various
8 programs.

9 In an attempt to be open and
10 transparent with folks, what came out was a
11 document that looks at how these two fit
12 together, and that document has been
13 something that we have been going around the
14 country, sitting and talking with people,
15 because it's in draft and it needs to be
16 clarified.

17 And so one of the points is --
18 I've gone to eight different cities, I've
19 held public meetings, and I was even meeting
20 with some folks here in New Orleans last
21 night on this topic, because we have the
22 ability to ensure that the implementing
23 guidelines match what people's expectations
24 are.

25 And so to this point, it will not

1 change the National Flood Insurance Program
2 in terms of how we map today, the rates that
3 are set on the ability for people to have
4 claims. It will not do that. We don't see
5 that the Executive Order directs us to do
6 so.

7 What I was asked last night, and I
8 think it was very fair, is they said if
9 that's the case, show us that language
10 directly in that implementing interagency
11 guideline.

12 And so one of the challenges I
13 offered back to folks is, that is the
14 intent. Can you tell me what words that we
15 would put on this page that would bring that
16 level of assurance?

17 The intent of the Executive Order,
18 and it's clear in the policy section of
19 Section 1, is to focus on federal
20 investments in construction projects. So
21 that's if there's going to be federal
22 dollars put in, we should build it higher
23 and stronger so that it can withstand.
24 That's the intent.

25 Part of what has been going on,

1 through this now 90 days of public
2 engagement, has been, help us understand
3 where these uncertainties may be and help me
4 understand what words would bring the kind
5 of certainty that people want.

6 CHAIRMAN VITTER:

7 Roy, let me follow up on that. So
8 you're saying that this Executive Order
9 would not change the definition of
10 floodplains for NFIP?

11 MR. WRIGHT:

12 That is correct.

13 CHAIRMAN VITTER:

14 Okay. Now, you just said it would
15 be about any federal investment.

16 MR. WRIGHT:

17 Investment.

18 CHAIRMAN VITTER:

19 Aren't mitigation programs, all
20 sorts of things directly related to NFIP,
21 federal investments?

22 MR. WRIGHT:

23 So this is where I will separate
24 the part related to those who have insurance
25 policies, the 5.2 million people who have

1 insurance policies. It does not change it
2 for that.

3 If you received a grant from FEMA
4 for a mitigation project -- and there is one
5 grant program under the NFIP, it's called
6 Flood Mitigation Assistance -- and we do a
7 number of different kinds of projects,
8 including elevations, and if you are getting
9 an elevation funded through a grant, this
10 could have an effect on that part, but we're
11 already paying to build something up at that
12 point, so that's the incremental element,
13 but as it gets to the insurance piece of the
14 equation, how the maps are drawn, how the
15 policies are sold, rated, priced, it does
16 not.

17 And one of the things that we've
18 been asked is -- we see that we can make
19 that interpretation, based off the Executive
20 Orders, both the one from 1977 and the new
21 one. Folks have said, if that's the case,
22 then make that plainly clear in this
23 document that that separation exists.

24 CHAIRMAN VITTER:

25 And wouldn't it still potentially

1 impact federally-supported mortgage programs
2 that are all balled up for a homeowner with
3 NFIP?

4 MR. WRIGHT:

5 So it's not best for me to speak
6 definitively for another federal agency, but
7 as I've worked with the other agencies and
8 had these conversations, the way that HUD,
9 for example, has looked at this -- because,
10 frankly, they've been implementing this
11 requirement already over the last 37 years,
12 under the old Executive Order -- and what
13 they have determined, and we believe is the
14 right answer to continue, is if you're
15 getting a loan for construction, as a
16 federal dollar for construction, this would
17 likely have an application to you.

18 But if you are getting a
19 federally-backed mortgage, if you're getting
20 financing or refinancing, those agencies
21 have determined that the structure already
22 exists. There would be nothing to
23 implement. It's simply a financial
24 transaction.

25 Some of that is already in the

1 document, but we have been asked, again,
2 make that plainly clear, plainly clear that
3 this application to this would not have an
4 adverse impact on the availability of
5 mortgage financing.

6 CHAIRMAN VITTER:

7 Right. Well, I would just echo
8 that request.

9 MR. WRIGHT:

10 Okay.

11 CHAIRMAN VITTER:

12 I mean, if that is the absolute
13 commitment, it can certainly be stated in a
14 much more precise way, including in an
15 actual Executive Order, not just, you know,
16 agency guidelines, so that's No. 1.

17 And to the extent anybody in the
18 administration doesn't want to do that, it
19 obviously makes us ask, "Why not?" And
20 you're saying, "No problem." But why not
21 state it very precisely in an actual
22 instrument that has the same standing as the
23 Executive Order we're talking about, that's
24 No. 1.

25 No. 2, I would just restate that

1 even were that to occur, there are plenty of
2 other impacts about federal investments that
3 you are saying are directly impacted that we
4 think is going to shut down a bunch of
5 necessary activity in large parts of the
6 United States, huge parts of Louisiana.

7 MR. WRIGHT:

8 And so, again, I have learned, and
9 again, having conversations last night, I
10 learned more, and what I said to folks,
11 "Help us with those words." I'm not in a
12 position to make a commitment about a
13 subsequent Executive Order, but I am in a
14 position by which we were very clearly
15 directed to look at this implementation and
16 start by putting a draft out so people could
17 legitimately respond to it, and bring the
18 kind of clarification that you are seeking
19 on this.

20 As that comment period is played
21 out, I do believe, even talking to some
22 folks last night, there are specific
23 comments that will come in that says,
24 "Here's the kind of words in the interagency
25 guidance" --

1 CHAIRMAN VITTER:

2 Right.

3 MR. WRIGHT:

4 -- "that would produce that kind
5 of increased certainty."

6 CHAIRMAN VITTER:

7 Well, again, you just said in the
8 interagency guidance. I mean, my request is
9 for more than that, because guidance can
10 change on a moment's notice.

11 MR. WRIGHT:

12 It can. In this instance, this
13 document was last updated in 1978. It's not
14 one that has been frequently changed, but as
15 you well know, I can't make a commitment
16 about the issuance of an Executive Order.

17 CHAIRMAN VITTER:

18 Right.

19 MR. WRIGHT:

20 But I can make sure that,
21 consistent with those Executive Orders, the
22 interpretation of it is clear and sound and
23 aligned to the outcomes that we're
24 describing today.

25 CHAIRMAN VITTER:

1 Right. Brad, do you have anything
2 to add? And then we'll move to Senator
3 Cassidy.

4 MR. KIESERMAN:

5 Nothing, Senator, thank you.

6 CHAIRMAN VITTER:

7 Okay, Bill.

8 SENATOR CASSIDY:

9 So just to be sure -- and, again,
10 I apologize if I was gathering wool or a
11 little dense, but you said if it is a
12 federally-backed mortgage for an existing
13 structure, I've already laid the foundation,
14 not affected, but what if I'm a developer
15 about to make a lot of small neighborhoods
16 so people can move to, you know, to respond
17 to the need for housing, and those are
18 federally-backed mortgages to be issued in
19 the future? Would it affect those
20 federally-backed mortgages?

21 MR. WRIGHT:

22 So I want to be clear and precise
23 with you, to the best of my ability. In
24 almost -- there's -- and I'm trying to be
25 precise, because there is one particular

1 program --

2 SENATOR CASSIDY:

3 You may have to bring the
4 microphone to you.

5 MR. WRIGHT:

6 I'm sorry. As I understand it,
7 HUD has one small program by which they do,
8 in a rural context, provide funding for
9 construction. It's a very small part of the
10 FHA portfolio, very small.

11 And the other instance is when
12 people are getting loans for -- when they're
13 getting loans for construction, those are
14 not federally-backed mortgages, and so
15 usually what happens is the end --

16 SENATOR CASSIDY:

17 Yeah, but they sell it. They sell
18 it.

19 MR. WRIGHT:

20 At the end. So the financing for
21 the construction is a much riskier
22 proposition than when it's complete. So the
23 homeowner is involved with a completed
24 structure, and so at that point, it exists.

25 CHAIRMAN VITTER:

1 So are you saying definitively
2 that it would not in any way affect
3 federally-backed mortgages for new
4 construction homes?

5 MR. WRIGHT:

6 If the -- to the degree that there
7 is not a federal dollar involved in the
8 construction. If there's federal dollars in
9 the construction, this will have an
10 application to them. But if it is simply
11 using a financial instrument, for a Freddie,
12 Fannie, FHA kind of loan --

13 CHAIRMAN VITTER:

14 Well, I mean, I'm sure in some of
15 these sorts of developments Bill is
16 describing, I would guess --

17 SENATOR CASSIDY:

18 Community block grant. A
19 community block grant that's going to make
20 mixed use housing.

21 MR. WRIGHT:

22 Okay. So now we're going to a
23 different category. We're not talking about
24 a financial transaction any more. This will
25 have an impact on the CDBG funds, and when

1 we're doing those kind of housings, we
2 should build them higher and stronger and
3 plan for it on the way in.

4 And I think that there's some
5 sound public policy behind that. Often,
6 we're dealing with those with less income
7 means, and that means they also have less
8 economic means to recover from a given
9 disaster, and so we want to make sure that
10 they can withstand, in that instance.

11 Again, I can't speak definitely
12 for HUD, that's not my agency, but as we've
13 looked at this across, the conversations
14 with others, if you're receiving CDBG for a
15 construction project, this would have an
16 application.

17 SENATOR CASSIDY:

18 So let me ask you another point.
19 How do you figure out assumptions for a
20 500-year flood risk? Could you have
21 imagined the Army Corps would have built
22 levees that would fail? That's one example.

23 Can we imagine that Sandy, where
24 it was a new moon, with a high tide, with a
25 storm at a certain angle -- you follow what

1 I'm saying? There's so many assumptions,
2 and are you being transparent about your
3 assumptions? Because whether or not, in 500
4 years -- 500 years ago, it was 1514. Who
5 would have known that they would have leveed
6 the Mississippi River in a way that our
7 wetlands have died and not have helped us
8 mitigate the wetlands lost? And so New
9 Orleans, which formerly was protected, is
10 now at high risk? You follow what I'm
11 saying? How in the heck can you do that?

12 MR. WRIGHT:

13 So -- I follow the line of
14 questioning and I'm going to give you a
15 statistical answer, which is to say, what is
16 usually referred to as the 100-year is
17 actually a one percent annual chance
18 statistical calculation, and what is often
19 referred to as the 500-year is actually a .2
20 percent annual chance statistical
21 calculation, and it is not a presumption
22 related to whether or not certain structures
23 would fail or not.

24 None of the calculations are
25 related to that. Rather, it's looking

1 particularly at what does it mean to deal
2 with the rainfall that would occur under the
3 .2 annual chance.

4 But let me use this as a point to
5 highlight for you why, in this instance, the
6 standard gives three options. Because if we
7 look at various places across the country,
8 different options may be the right answer.

9 So the first one says, do you have
10 data about the future risk, and if you're
11 doing a specific project, whether it's a
12 flood control project or a large scale
13 transportation interchange, in those
14 instances, they're looking for over the life
15 of that project, often 50 years, and they
16 are making some projections about what they
17 would anticipate, and frankly, that's where
18 we're going to largely see that first
19 approach related to the future risk informed
20 science.

21 In other instances, dealing with
22 the plus two-foot freeboard, is the right
23 answer, which has been an engineering safety
24 factor that has been in practice for more
25 than 40 years, or other cases by which the

1 .2 percent annual chance piece or the
2 500-year may be applicable.

3 Those are the three options that
4 are on the table, and those options are
5 intended to ensure we have flexibility so
6 that we can look at the realities in a
7 community and separate them.

8 SENATOR CASSIDY:

9 So who chooses the option to use?
10 If I am, again, a small business woman
11 trying to develop a neighborhood, and I have
12 got to comply -- maybe I'm doing low income
13 houses as part of a CDBG, then can I pick
14 which of those three apply to my project?

15 MR. WRIGHT:

16 So this has been part of the
17 conversation, as I've talked across the
18 country, and right now the guidance is
19 silent about which one to choose. There's a
20 preference that says if you've got the
21 climate-informed science about the future,
22 you should use it. But when you're looking
23 at the other options, it doesn't.

24 The thought behind that was that
25 as you look at the different character of

1 various federal programs, we should ensure
2 that you choose an option that is consistent
3 with its mission, consistent with the intent
4 of that program.

5 What I have heard from folks is
6 that they are looking for a way to have more
7 predictability in this, and we've had some
8 great conversations with folks about how we
9 live in this tension between predictability
10 that says you must take this path and also
11 having flexibility so that the realities in
12 a given community can be incorporated and
13 addressed.

14 And so that's one of the things,
15 as we've gone through the public engagement,
16 we've asked for insight from folks about how
17 they would prefer for that decision to be
18 made.

19 SENATOR CASSIDY:

20 David.

21 CHAIRMAN VITTER:

22 Okay. Two things, as we close out
23 this panel. First, there are obviously a
24 lot of continuing questions about this. The
25 comment period on this closes next

1 Wednesday. Can the administration extend
2 the comment period, which has been formally
3 requested?

4 MR. WRIGHT:

5 Right. So I have a number of
6 requests to extend this. Initially this was
7 a 60-day comment period, and given the
8 nature of the conversations we were having,
9 we agreed and we extended it to make it 90
10 days, and that's where we're at, so we've
11 already given an extension.

12 And when we come out of this, each
13 agency is going to be directed, later in the
14 year, to engage, as they do their own
15 protocols, with another engagement of the
16 public. We are all being directed and
17 mandated to do that.

18 We have a request. I am working
19 with the team in DC so that we can make a
20 decision on that. I expect that to happen
21 early next week.

22 CHAIRMAN VITTER:

23 Okay. And, finally, Brad, you
24 have looked at a lot of things in the
25 program, particularly in the context of

1 Superstorm Sandy. Do you have any
2 developing or formed thoughts including
3 about the "Write Your Own" end of the
4 program?

5 MR. KIESERMAN:

6 Thank you. Roy says, "Thank you,
7 Senator, for moving on," for moving to
8 something I will talk about. Thanks for
9 doing this. So just to give you some
10 background, --

11 CHAIRMAN VITTER:

12 Actually, I didn't think you were
13 minding that I was staying with Roy.

14 MR. KIESERMAN:

15 I wasn't minding at all. I had
16 some of the same questions and now I've got
17 the answers.

18 So in the aftermath of Superstorm
19 Sandy, as many of you may know, there's an
20 extensive amount of litigation that's going
21 on up in New York and New Jersey, on the
22 eastern seaboard. 60 days or about 70 days
23 ago, I was brought in to troubleshoot that,
24 and I have been drinking from the fire house
25 ever since, but I will share with you my

1 initial observations, if that's okay.

2 First of all, the National Flood
3 Insurance Program, which is run -- the
4 gentleman talked about resources at the NFIP
5 earlier. There's 70 federal employees in
6 Washington. They are the National Flood
7 Insurance Program, Risk Insurance Division.
8 They are the ones who -- who do what? And
9 here's the answer. What they do and what
10 they're supposed to do -- and they're
11 hard-working people just like you are -- but
12 they're in a program that frankly is in dire
13 need of an overhaul.

14 So what's happened, over the
15 course of the years, there is 82 companies
16 that sell flood insurance, as well as the
17 National Flood Insurance Program itself,
18 that has about 20 percent or 18 percent of
19 the policies that we actually sell and
20 market because other companies won't do
21 that. Generally, they're higher risk
22 policies.

23 So between us and one other
24 company, Wright Flood Insurance, between the
25 direct side and Wright Flood Insurance, we

1 have about 30 to 40 percent of all the
2 policies nationally. Then the other 81
3 entities have the other 60 percent. Does
4 that make any sense to anybody?

5 So it made sense before the
6 internet. It made sense before you could go
7 online and by E-insurance, because you
8 needed people all over the country to sell
9 and market your product.

10 So it is very clear to me that 31
11 percent of every premium dollar you pay, at
12 least 31 percent, goes to a "Write Your
13 Own." I don't know about you all, when I
14 give to charity, I look and see what their
15 overhead costs are, because what I want is
16 my dollars going to the people I'm giving
17 to. I don't want my dollars going to
18 overhead.

19 And so as I've looked at the
20 program just over the last 70 days,
21 Senators, what I am seeing is that we are
22 paying a lot more in overhead than we should
23 be in 2015. The program structure is a
24 1980s era business structure. I don't think
25 it's the correct business model today.

1 And I want to be clear. A lot of
2 people say, the Write Your Owns are bad and
3 the insurance companies are bad, and I'm not
4 saying that. Insurance companies are
5 necessary, they serve a purpose, and there
6 are many responsible insurance companies. I
7 just don't know that the business model for
8 delivering a subsidized federal program that
9 is virtually unavailable anywhere else in
10 the commercial market is the model we have
11 today.

12 What's clear to me is that we have
13 a capacity issue, especially in disaster or
14 catastrophic events. Where are the agents
15 coming from? Where are the adjusters coming
16 from? Where are the engineers coming from?
17 And who's making sure that the people who
18 come to your homes and your businesses are
19 reputable, reliable people of integrity?
20 Because as John Houghtaling knows, we have
21 encountered -- and I know you all
22 encountered it down here, as well -- but we
23 have seen, in the Sandy aftermath of the
24 Sandy storms, that not everybody who came to
25 somebody's home or business was reputable or

1 a person of integrity, and we certainly have
2 seen evidence that fraud was committed. So
3 there's a huge need to fix the oversight
4 piece of this.

5 There's another part, if I can,
6 for just one moment. We've lost touch with
7 the customer. I'll tell you what, the
8 people who are running the program at the
9 national headquarters, they are good people,
10 but they view their customer as the "Write
11 Your Own" insurance company, and there's a
12 reason for that. They have virtually no
13 contact with you at all. The contact is
14 carried out through -- by literally a
15 hundred thousand people, agents and
16 adjusters and engineers and people that --
17 we've lost touch. We have just lost -- and
18 I can show it to you in the numbers.

19 The last piece, not only have we
20 lost touch, many people who buy a flood
21 insurance policy don't know what they
22 bought, and they are very surprised at the
23 time of their loss that something's not
24 covered, or that the pricing that we're
25 using to replace something or repair it is

1 way off what their expectations were.

2 So we have to do a couple things.

3 We have to get way better -- and I'm not
4 talking about little increments here, I'm
5 talking about way better -- at educating
6 policy holders and perspective policy
7 holders about what their policies really
8 cover. And I have to say, I have never seen
9 so many exclusions, exceptions. And I know
10 why they're there. They're there because
11 this is a subsidized program and so you have
12 to have a lot of exclusions and exceptions
13 to keep it affordable.

14 But you have to understand what
15 those are and make decisions about your
16 risk, and we have got to just up the game on
17 that.

18 So I see the reforms going forward
19 as evaluating the business model and making
20 sense about -- making better decisions about
21 what an efficient, economically efficient
22 customer survivor-centric business model
23 looks like. I don't think it's the model we
24 have today, but I don't have a replacement
25 in mind.

1 I just know that we've got to look
2 at it and we're going to look to our
3 partners to help us understand that,
4 including insurance companies, Congress, the
5 plaintiffs' bar, our policy holders, small
6 businesses to help us understand that, that
7 business model change.

8 We've got to get more
9 survivor-centric and get back in touch with
10 the customer and we've got to do a better
11 job providing customer service and that's --
12 if you've ever been frustrated trying to get
13 your paperwork cleared, you've been
14 frustrated with your adjuster or your
15 engineer -- many of you are small business
16 owners. You wouldn't run your business that
17 way, and we've got to run our business that
18 way. So thank you.

19 SENATOR CASSIDY:

20 David, can I ask him one question?

21 CHAIRMAN VITTER:

22 Sure.

23 SENATOR CASSIDY:

24 I want to link the next panel with
25 this panel. My concern is that if we go to

1 this 500-year or three feet above the base
2 flood elevation, et cetera, that that will
3 impact the real estate market indirectly,
4 but profoundly.

5 For those of us who are homeowners
6 in this room, our principal investment, our
7 principal equity in life is our home.

8 Now, David McKey is going to be on
9 as a real estate broker and he is going to
10 be on a follow-up panel, but just for the
11 benefit of us homeowners, David -- and then
12 if you could respond -- to what degree do
13 you think that the proposed 500-year storm
14 surge, et cetera, for federal buildings,
15 will spill over into the risk underwriting
16 or risk perception of a primary residence
17 which would otherwise be unaffected?

18 MR. McKEY:

19 Well, the critical factor that we
20 have is -- and what a lot of people don't
21 understand is the flood insurance impacts,
22 and if it increases on one piece of
23 property, that's not just an impact on that
24 piece of property. It impacts the
25 subdivision, it impacts the community, so

1 it's really a widespread effect anytime we
2 see rates on our homes or even our
3 businesses increase.

4 SENATOR CASSIDY:

5 So if we have a Community Block
6 Grant Development with mixed income housing,
7 and it has to be built to a certain level in
8 order to be certified, and that is different
9 from the neighborhood next door,
10 nonetheless, you feel as if -- I'm asking, I
11 don't know this -- that there will be a
12 spillover of increased rates because a
13 perception has been created that it is a
14 higher risk than previously assumed?

15 MR. McKEY:

16 That would be absolutely correct.
17 When an appraiser comes into an area, a lot
18 of times he doesn't look strictly at that
19 particular subdivision when he's trying to
20 assess the value of that home. He looks
21 around the area and tries to pick up
22 comparables to make an evaluation of that
23 property. So if he's picking up comparables
24 in an area that, like you're talking about,
25 it is going to, no doubt, affect surrounding

1 properties.

2 SENATOR CASSIDY:

3 And I was going to say, my fear is
4 that the administration is so committed to
5 climate science and their understanding of
6 it that they are going to make assumptions
7 which are quite variable. 40 years ago, we
8 thought we were entering a mini ice age and
9 now we speak of global warming, that we will
10 have assumptions made that will impact,
11 sure, federally, but then spill over. Roy,
12 any comment to that?

13 MR. WRIGHT:

14 What I would simply say is that
15 building higher and stronger in areas of
16 flood risk is a good idea. It is something
17 that communities and parishes here --

18 SENATOR CASSIDY:

19 I accept that, but if you take
20 that to a logical extension, we'd all live
21 in lighthouses.

22 MR. WRIGHT:

23 No, I -- no, sir, I wouldn't
24 assert that. What I would say is there are
25 elements related to additional freeboard.

1 We see this in places like Mandeville
2 Slidell, St. James, St. Tammany, Ascension
3 parishes, in which people have looked and
4 said, building higher and stronger is the
5 right answer for what we're doing, going
6 forward.

7 And I understand there may be some
8 debate about exactly what to forecast, yet
9 whether it's through subsidence, other kinds
10 of elements by which we deal with changes in
11 risk, here in southern Louisiana, on an
12 ongoing basis, that we want to ensure that
13 when future events come in, we are creating
14 an ability by which the community and those
15 who live there will be able to withstand
16 that event, and to the degree that it has an
17 impact on them, they would be able to
18 recover and rebound quickly.

19 And so we need to do that in a way
20 that is consistent and engaging with the
21 community so that they understand where they
22 are headed with these elements.

23 CHAIRMAN VITTER:

24 Okay. I think this is a good
25 transition to our second panel, of which

1 David is a member, but let's give our first
2 panel a round of applause.

3 (Applause).

4 CHAIRMAN VITTER:

5 Now, I'd like to ask our second
6 panel to come up. I'll be introducing them
7 as they get situated, if I could have
8 everybody's attention.

9 Dwayne Bourgeois is a native of
10 Thibodaux and a lifelong resident of
11 Lafourche Parish. He serves as the
12 Executive Director for the North Lafourche
13 Levee District. Hurricane Katrina brought
14 about many changes, including involving
15 FEMA, that have caused Dwayne to become much
16 more involved regarding flood elevations and
17 related issues in Lafourche.

18 Jerry Passman is a native of Baton
19 Rouge and Immediate Past President of the
20 Louisiana Home Builders Association. He has
21 been a member of the Capital Region Builders
22 Association for 18 years and has been very
23 involved in that directly related industry.

24 And David McKey, who you've
25 already heard from briefly, is the

1 Broker/Owner of Coldwell Banker One, a real
2 estate company in Baton Rouge. He serves as
3 Chairman of the National Association of
4 Realtors Work Group on Flood Insurance.
5 He's been very, very involved in his related
6 part of business for many years.

7 Welcome to all of you. I really
8 appreciate your being here, and we'll hear
9 from each of you, in turn, for five minutes,
10 starting with Dwayne, and then we'll have a
11 conversation about it. Dwayne.

12 MR. BOURGEOIS:

13 Good morning, and I'd like to
14 thank you, Chairman Vitter and Senator
15 Cassidy, for the opportunity to testify
16 today.

17 I am the Director of the North
18 Lafourche Levee District, a political
19 subdivision in the state of Louisiana, but
20 I'm here today representing a broader group
21 of agencies, citizens, businesses in the
22 state of Louisiana who rely heavily on the
23 National Flood Insurance Program.

24 As I am sure everyone here is
25 aware, the Biggert-Waters Flood Insurance

1 Reform Act of 2012 extended the
2 authorization of the NFIP for a 5-year
3 period, which ends September 30th, 2017.
4 Biggert-Waters '12 was supposed to be a
5 permanent fix to the solvency of the NFIP.
6 It clearly was not.

7 In 2014, the Homeowners Flood
8 Insurance Affordability Act was passed to
9 fix parts of Biggert-Waters '12, and from a
10 residential homeowner's point of view, it
11 repealed the most damaging parts of
12 Biggert-Waters '12; but most everyone
13 agrees, there is still much room for
14 improvement across the board.

15 So now we find ourselves with
16 another opportunity to address the issues of
17 this very important federal program.
18 Biggert-Waters '12 has caused many
19 organizations locally and nationally to take
20 a close look at the NFIP and to question the
21 approaches taken to address solvency and
22 long-term stability. The Association of
23 Levee Boards of Louisiana, working with
24 other state and local organizations, have
25 compiled suggested changes to the NFIP into

1 a few specific reforms that I would like to
2 outline for you today.

3 First and foremost, all new
4 changes to the NFIP will have made, going
5 forward, should be looking forward, okay.
6 We can't punish people who have followed
7 FEMA's rules for participation in the NFIP.

8 So with the exception of Severe
9 Repetitive Loss properties, we suggest that
10 all new legislation should be structured so
11 that the existing policyholders of any
12 property class must be allowed to purchase
13 Flood Insurance at approximately the same
14 cost as before any new legislation as long
15 as there is no lapse in coverage or
16 accumulative flood claims equal to the fair
17 market value of the property.

18 Further, these same property
19 owners should be allowed to sell or
20 otherwise transfer the title of their
21 property to a new owner who will then be
22 able to continue with insurance coverage, as
23 described.

24 Flood insurance policies are
25 offered by FEMA as part of a quid pro quo

1 arrangement to mitigate flood-related cost
2 to the Federal Government. They are offered
3 by the Federal Government to the
4 policyholders under the belief that doing so
5 was equally beneficial to the Federal
6 Government. All policies came with
7 floodplain management restrictions that FEMA
8 required for a community to participate in
9 the National Flood Insurance Program.

10 The Federal Government not only
11 implied that this affordable insurance would
12 be available for the life of the property;
13 it published and promoted the program
14 accordingly. Citizens and businesses made
15 huge financial decisions, in most cases the
16 largest financial decision of their entire
17 life, based on the promise of the Federal
18 Government.

19 Second, the solvency of the
20 program must be addressed in a more
21 equitable manner. We need to address
22 program cost, not just revenue. From 1978
23 to 2013, the program collected over \$9.67
24 billion more in premiums than it paid in
25 claims and yet the program remains \$25

1 billion in debt. This suggests severe
2 issues with the cost of administrating and
3 operating the program. The "Write Your Own"
4 insurance companies make a 30 percent margin
5 on policy sales without having to underwrite
6 any of the risk.

7 In all of the NFIP reform
8 legislation proposed and passed, to date,
9 the only group asked to give more to correct
10 the programmatic deficit in the NFIP was the
11 policyholders through increased premiums.
12 There must be alternatives.

13 Third, there appears to be a huge
14 lack of mandatory participation in the
15 program. It has been law since 1973 that
16 any property mapped by FEMA in a Special
17 Flood Hazard Area must purchase flood
18 insurance if the property is mortgaged by a
19 lending institution regulated by the Federal
20 Government. Nationally, a study done in
21 2006 showed that only 49 percent of those
22 required to have flood insurance actually
23 had it.

24 Further, it was estimated that
25 when Superstorm Sandy was heading up the US

1 eastern seaboard, only 15 to 25 percent of
2 the at-risk population had flood insurance.
3 Biggert-Waters '12 increased the penalties
4 to lending institutions for non-compliance,
5 but this law must be rigorously enforced in
6 some manner.

7 The Federal Government has
8 performed very poorly at enforcing this
9 cornerstone issue in the NFIP. The intent
10 was to have all of these properties in the
11 NFIP for two primary reasons. First, to
12 increase the revenue base of the NFIP, and
13 second, to be able to use the insurance
14 principle of the Law of Large Numbers to
15 spread the risk to the program
16 geographically.

17 Fourth, Biggert-Waters '12 caused
18 a big problem with the actuarial
19 calculations used to determine the cost of
20 insurance for the program by requiring FEMA
21 to include catastrophic loss years in the
22 actuarial calculations. This greatly
23 changes the method FEMA uses to determine
24 the cost of insurance.

25 The American Academy of Actuaries

1 reported to Congress that including
2 catastrophic loss years in these actuarial
3 calculations was not in line with Standard
4 Actuarial Principles before Biggert-Waters
5 '12 was even passed into law.

6 So, finally, we must also consider
7 how a program designed to mitigate for a
8 100-year flood loss through a quid pro quo
9 relationship with local community's
10 floodplain management can reasonably be
11 expected to absorb the cost of 400-year
12 events.

13 In conclusion, I would like to
14 point out that ours is a working delta, the
15 fruits of which are enjoyed by and enrich
16 our entire nation. As such, the
17 availability of federally-backed affordable
18 and financially stable flood insurance is of
19 vital importance to our region and the
20 entire nation.

21 We commend the Committee for
22 addressing long-term reauthorization and
23 reform of the National Flood Insurance
24 Program. We thank you for this opportunity
25 to share both our situation and our views on

1 this important issue.

2 CHAIRMAN VITTER:

3 Thank you very much, Dwayne, and
4 now we'll hear from Jerry Passman. Jerry.

5 MR. PASSMAN:

6 Well, again, I would also --

7 CHAIRMAN VITTER:

8 If you can pull the mike to you.
9 Thank you.

10 MR. PASSMAN:

11 I would also like to thank you all
12 for the opportunity to testify today.

13 Again, I'm Jerry Passman. As you mentioned,
14 I'm a third-generation home builder and
15 small business owner from Baton Rouge,
16 Louisiana, and the Immediate Past President
17 of the Louisiana Home Builders Association.

18 We, the home builders, have a long
19 history of supporting the NFIP. However,
20 recent actions of FEMA and the
21 administration continue to create
22 uncertainty for home buyers, home builders
23 and small businesses. Due to major
24 disasters, NFIP solvency has been
25 threatened. Many thought Biggert-Waters

1 would ensure the physical soundness of the
2 NFIP; however, there were unintended
3 consequences.

4 Biggert-Waters impacted to sell
5 both pre-FIRM and grandfathered properties
6 by triggering an immediate shift of full
7 rate risk with premiums increasing by 25
8 percent with a full rate risk each year.
9 Home builders from across the country were
10 witnessing how drastic rate increases were
11 negatively affecting the sales of homes and
12 saw rates increase ten-fold over what
13 homeowners were previously paying.

14 For example, due to inaccurate
15 mapping, a young couple from New Orleans had
16 to cancel the purchase of their first home
17 because of an unexpected increase in the
18 flood insurance rates, from 2,000 to \$6,550.

19 In another example, a Louisiana
20 builder bought a home, only to realize that
21 the flood insurance rates on the home had
22 increased from the anticipated \$412 to over
23 \$13,000.

24 Home remodels were severely
25 affected by Biggert-Waters with a

1 substantial improvement threshold rate
2 increasing from the traditional 50 percent
3 to 30 percent or more of the market value of
4 the structure.

5 This provision represented a major
6 deterrent for grandfathered property owners
7 located within the floodplain for making
8 minor renovations, such as adding energy
9 efficient appliances to a kitchen or
10 updating their homes, or even performing
11 normal maintenance, at the risk of paying
12 significant premium increases.

13 Under your leadership, Congress
14 acted quickly to change many of the
15 unintended consequences of Biggert-Waters.
16 The Homeowner Flood Insurance Affordability
17 Act of 2014, HFIAA, no longer triggered the
18 immediate increases to full-rate risk for
19 pre-FIRM or grandfathered properties, and
20 FEMA was required to provide refunds to
21 eligible property owners whose NFIP rates
22 increased.

23 Additionally, the important
24 substantial improvement threshold was
25 restored to the traditional 50 percent,

1 giving homeowners the ability to make needed
2 renovations without risking drastic
3 increases in their insurance rates.

4 Thanks to Congressional oversight,
5 FEMA's now required to notify the community
6 affected and their Congressional delegation
7 before updating new mapping models. They
8 are required to reimburse the policyholders
9 or the communities for successful challenges
10 to the errors, in confirmed maps.

11 Although there are many positive
12 changes that arose from HFIAA, some changes
13 with the NFIP remain. Specifically, a
14 recent Executive Order that President Obama
15 signed will require each federal agency to
16 expand the definition of a floodplain well
17 beyond the longest 100-year floodplain for
18 all federally funded or approved projects.

19 In establishing the definitions,
20 agencies may use the best available
21 climate-informed science, the freeboard
22 approach, which adds two to three feet of
23 freeboard to the base flood elevation, on
24 the 500-year floodplain, or any combination
25 of the three.

1 While FEMA stresses that this will
2 not impact NFIP rates, home builders and
3 property owners are left wondering if
4 structures in these new areas will soon
5 require mandatory purchase of flood
6 insurance. This uncertainty will devalue
7 land and existing homes and businesses well
8 beyond the 100-year floodplain.

9 Home builders are also concerned
10 about the EEOs impact to private
11 construction receiving federal financing or
12 permitting.

13 According to my experience, almost
14 every home I've built has either had some
15 sort of federal financing, i.e., a
16 government guaranteed mortgage, such as
17 Fannie Mae, Freddie Mac, or VA, or requires
18 some sort of permit. Every home I've built,
19 we have to get a permit because we have to
20 comply with the Clean Water Act.

21 I'd like to thank the Committee
22 for this opportunity to testify before you
23 today and allow small builders from Baton
24 Rouge, Louisiana, to have a voice on this
25 issue.

1 I'd also like to express my and my
2 fellow home builders gratitude to Chairman
3 Vitter for your leadership on this issue.
4 We, the home builders, look forward to
5 working with Congress on the NFIP
6 reauthorization to ensure homeowners, home
7 builders and small businesses are protected
8 from exorbitant rate hikes, inaccurate
9 mapping, as we have seen in the past.

10 CHAIRMAN VITTER:

11 Great. Thank you very much,
12 Jerry. And now we move on to David McKey.
13 David, welcome.

14 MR. McKEY:

15 Thank you, Chairman Vitter, and
16 thank you, Senator Cassidy. You have been
17 friends of realtors for many years, and
18 also, you have been great supporters of home
19 ownership and business property ownership,
20 in Louisiana, and we appreciate that.

21 CHAIRMAN VITTER:

22 Thank you.

23 MR. McKEY:

24 My name is David McKey. I am a
25 managing broker and owner of Coldwell Banker

1 One, in Baton Rouge, Louisiana. I've been a
2 realtor for 23 years and I am speaking to
3 you on behalf of 11,350 realtors across the
4 state of Louisiana that are members of
5 Louisiana REALTORS. I'm also one of over a
6 million realtors that are members of the
7 National Association of REALTORS across the
8 country, one of the largest trade
9 associations in the country.

10 Every community across the nation,
11 realtors help citizens from all walks of
12 life to achieve their dream of home
13 ownership. We also help small businesses
14 find locations and open their doors to
15 business.

16 One of the inalienable truths of
17 working in real estate is the big surprises
18 just before a closing or at the closing
19 table, and it's rarely good news.

20 Transparency and certainty are vital to
21 running a good business and not the fear of
22 uncertainty.

23 We appreciate your continued
24 support and your leadership on the flood
25 insurance, especially your hard work last

1 year, in Congress. One year later, we
2 believe the Flood Insurance Affordability
3 Act has succeeded in reining in most of the
4 excessive and inaccurate rates across
5 Louisiana, but as you know, we still have
6 work to do.

7 Small businesses employ over half
8 of the state's private work force. At the
9 same time, flood insurance has become a
10 significant expense for many property
11 owners, especially small business owners who
12 tend to have smaller production lines over
13 which to spread costs relative to their
14 larger competitors.

15 For this reason, it is especially
16 important to phase in gradual increases in
17 flood insurance so that there's a transition
18 period, a planning period, and an
19 adoptability period for small businesses.
20 In our state, however, that's not always
21 been the case.

22 Let me give you a practical
23 example. Before the Affordability Act,
24 there were news reports of surprise
25 increases in flood insurance premiums, up to

1 \$30,000 or more, for some businesses,
2 businesses that had never flooded or had
3 flood issues in the past. It didn't matter
4 if the information was factual, misleading,
5 and in some cases, not factual. Buyers
6 feared the worst. They were scared that
7 they would wake up with a \$30,000 flood
8 insurance bill in their mailbox, and that's
9 a death for a small business. Perception is
10 reality, and in real estate, that's why we
11 need certainty in the flood insurance
12 program.

13 Our realtors have told us that
14 often clients' first words are not to show
15 them properties in an area that would
16 require them to carry flood insurance for
17 their mortgage. This certainly rules out a
18 number of properties being marketed, and as
19 a result, many owners find their property
20 unsalable or hard to sell.

21 It also creates a rippling effect
22 throughout the communities. As values
23 decline on these properties, it also affects
24 surrounding properties, as we just talked
25 about, and in turn, the community tax base.

1 It costs our citizens income, loss of equity
2 in their real estate, and in some cases,
3 jobs were lost.

4 So while the Affordability Act has
5 been a success, there are still some issues,
6 and I'll discuss five with you.

7 First and foremost, we need
8 long-term reauthorization. The National
9 Flood Insurance Program will sunset in 2017.
10 We urge Congress to reauthorize a program
11 for a minimum of another five years.

12 Second, it's important to have
13 rate accuracy. There's too much confusion
14 over rates and fees. Clarity on something
15 like the 25 percent increase, for example.
16 We'd also like to see a strengthening of
17 training for our insurance agents so
18 everybody's on the same page, and consider
19 other incentives for accurate rates.

20 Third, let's identify programs and
21 funding opportunities for additional
22 investments in strengthening older, pre-FIRM
23 properties against flooding.

24 Fourth, the Office of Flood
25 Insurance Advocate, created by the

1 Affordability Act, needs additional
2 authority and staffing to be a full-fledged
3 advocate for homeowners when the insurance
4 companies -- there's clarity or flaws in the
5 insurance rates that the insurance companies
6 are quoting. The office should also report
7 on these issues it is not able to resolve,
8 under existing NFIP authorities.

9 And, finally, we absolutely must
10 fix the flood map appeals process. Right
11 now FEMA must first issue regulations before
12 it can begin reimbursing property owners.
13 This could take a while. Many property
14 owners might succeed if they appeal the
15 flood map, but could be discouraged from
16 doing so because they are outside the formal
17 window of 90 days to appeal, or the cost to
18 appeal may be too high. Let's expedite
19 reimbursement of successful appeals by
20 allowing FEMA to issue guidance.

21 In closing, let me say that I hope
22 we continue down the path of increased
23 certainty and accuracy. Most people are
24 afraid of the unknown, and this holds true
25 in the case of future affordability of flood

1 insurance.

2 We look forward to working with
3 you in the future to try and keep the
4 current flood insurance in place past that
5 September 30th date, and I thank you for
6 your time and allowing me to be here today.

7 CHAIRMAN VITTER:

8 Great, David. Thank you very,
9 very much. Thanks to all of you. And now
10 I'm going to turn it over to Senator Cassidy
11 for comments and questions, to begin.

12 SENATOR CASSIDY:

13 Mr. Bourgeois, I really liked your
14 comments, but I think it's also important to
15 understand that, one, we've got to have a
16 five-year reauthorization, at least, and we
17 have to put in those reforms that will
18 actually lower the premium for those of us
19 who are purchasing insurance, absolutely.

20 But we would not be totally kind
21 of in the right context to understand, this
22 is going to be a political battle. It
23 really is. Because if there's somebody on a
24 mountaintop in New Mexico, they may wonder
25 why they, quote/unquote, are subsidizing us.

1 Now, that is, until they have a flash flood
2 and they are now rated -- since they live
3 next to a stream -- as in a 500-year flood
4 zone.

5 Now, I say that not tongue in
6 cheek, but accurately describing what takes
7 place. Because once you start talking 500
8 years, there is no place in the nation,
9 including mountaintops in Colorado, that are
10 not at risk.

11 So just to say, in a political
12 context, what Senator Vitter and Congressman
13 Scalise and the others do is going to be
14 tough because people do not yet understand
15 their own community's risk.

16 Let me point out a couple other
17 things just in comment to what you all said.
18 You are right. A minority of people who
19 should have flood insurance have it. But
20 that's actually not FEMA's fault -- although
21 it's always wonderful to blame FEMA -- it's
22 actually the banking, the judiciary. It's
23 another government department that should
24 require that.

25 And there is some reticence when

1 we have a program that has been broken,
2 charging rates that are too high, to go
3 start tracking down a middle income
4 homeowner to pay a rate that is not
5 actuarially sound. Do you follow what I'm
6 saying?

7 So if you are in the middle of
8 Kansas and all of a sudden you're rated
9 because you live near a river, for a high
10 premium, but your premium is too high
11 because the flood map is wrong, are you
12 really going to take them to court because
13 they're not doing it?

14 Now, I say all of this to give a
15 context of what Senator Vitter and I will be
16 working with in the Senate and our
17 Congressmen and women will be doing on the
18 House side, and that is, all your ideas are
19 good. It's going to be tough.

20 Let me finish by something
21 optimistic before I turn it over to David.
22 The way it worked last time is you all got
23 involved. The way it worked last time is
24 that people got on their Facebook page,
25 reconnected with someone they went to high

1 school with and who lived in Wisconsin, and
2 said, "By the way, do you know what's about
3 to happen to your rate," and when she got
4 involved, she contacted her Congresswoman,
5 and all of a sudden it began to work.

6 Realtors, bankers, home builders, insurance
7 brokers all began to contact --

8 The best example I can give, I was
9 on the House side. We were setting up a
10 caucus, a homeowners' caucus, to advocate
11 for this, and I went up to a fellow from
12 southern Florida and I said, "Are you
13 familiar with Biggert-Waters, the rate
14 increases? We need your help on this
15 caucus." He goes, "I haven't heard from my
16 constituents about this." So I walked out,
17 I called up some realtors in Louisiana and I
18 said, "Light up south Florida." They lit it
19 up and he got on the caucus and became one
20 of our biggest advocates.

21 Now, this is something where y'all
22 being involved will make a difference on a
23 national level. David.

24 CHAIRMAN VITTER:

25 Great. Thank you, Bill. I want

1 to start by going to Jerry Passman. Jerry,
2 we're all concerned about this new Executive
3 Order related to climate science and
4 floodplain management.

5 You heard what Roy Wright said.
6 Based on that, if all of that were truly
7 nailed down, if all of that were accurate,
8 would that affect your new construction
9 activity still or not?

10 MR. PASSMAN:

11 Well, we think, if you go to the
12 preamble, the intent is for federal
13 buildings, federal highways and that sort of
14 thing.

15 As a home builder, if the federal
16 government wants to apply it to buildings
17 they are building or highways they are
18 building, we're fine with it, but the EEO
19 clearly states that it applies to all
20 federal actions, and we can see where that
21 would go to private construction, because as
22 I had mentioned in my testimony, many of the
23 houses I sell are bought with a mortgage
24 that is backed by the federal government,
25 like Fannie Mae and Freddie Mac, so that's a

1 federal action.

2 Also, there could be a 404
3 Wetlands Permit. There's definitely a 402
4 Clean Water Permit on those. Again, those
5 are federal actions.

6 And my experience is, and from
7 what I've seen from being active in my trade
8 association, if you give a federal regulator
9 an inch, they will take a mile. And you can
10 just look how convoluted the word Navigable
11 Waters has become. They've tortured,
12 twisted it, and then everyone in this room
13 would probably come up with a definition of
14 Navigable Water that's definitely not the
15 definition of Navigable Water in Washington,
16 DC.

17 CHAIRMAN VITTER:

18 Right. Okay. And following on
19 from that, even in the areas that it's
20 clearly meant to be about, like a federal
21 highway project or a federal building,
22 certainly that's going to impact us and the
23 economy here, right?

24 I mean, building these things to a
25 much, much higher standard often means they

1 never get built. I mean, we've sort of
2 dealt with that, Dwayne, with some of the
3 demands post-Katrina in terms of levee
4 standards, correct? Can you expand on that?

5 MR. BOURGEOIS:

6 Well, in the guidance, in the
7 Federal Flood Risk Management Standard gives
8 an example of a post office, and suggests
9 that just placing a post office somewhere
10 within this floodplain encourages other
11 people to be there. Because you've got the
12 construction of the post office and the
13 roads, the highways and the infrastructure
14 leading to it, and then the fact that you've
15 got a post office, it suggests that that's
16 going to bring people to the area because of
17 the federal services.

18 So, you know, it's clearly stated
19 to try to avoid, directly or indirectly,
20 encouraging development inside, and that's
21 inside the guidance more than the Executive
22 Order itself, that modifies the things, but
23 yes, we definitely had similar problems.

24 You know, if it's going to be more
25 costly to be constructed, with the limited

1 availability of funds across the board, it's
2 just not going to get selected. And it's
3 also a good opportunity for an agency to
4 make a determination not to select
5 something. That's another reason to check
6 off not doing it.

7 CHAIRMAN VITTER:

8 Okay. And, also, Dwayne, to you,
9 as a follow-up on the FEMA flood mapping
10 side, how would you grade how FEMA is doing
11 in that regard, including this so-called
12 LAMP process that has a lot of applications
13 in Louisiana?

14 MR. BOURGEOIS:

15 Well, the LAMP process, the Levee
16 Analysis Mapping Procedure, has to do with
17 getting some credit in the flood insurance
18 study for noncertified levees, okay.

19 You guys did a great job
20 convincing FEMA to include this legislation,
21 in the first place, so that the Without
22 Levees Policy, which was quite archaic, was
23 removed.

24 Currently there's 25 communities
25 throughout the United States that are doing

1 a pilot of this LAMP, with five of them in
2 Louisiana.

3 The biggest issue about that, to
4 me, that we need is flexibility, because in
5 all of the documentation and all of the
6 processes they created in LAMP, they were
7 more riverine-oriented, and we did get the
8 folks that were developing this to
9 eventually say that they realize that most
10 of the processes they've looked at there
11 weren't suitable for coastal levees. The
12 flood source is opposite. The time of the
13 flood source is much, much shorter, and you
14 just have to hang on for the length of the
15 storm versus a riverine flood that could
16 last for weeks.

17 To that, they purposely made some
18 of the coastal issues vague. My biggest
19 concern is that we have flexibility. So far
20 it looks like we are getting that, but,
21 again, when you get into the realm of
22 guidance as compared to something that's
23 truly codified, it's difficult to be assured
24 that they're going to let the regional
25 offices and their mapping partners aware

1 that they have the flexibility to look at
2 alternatives to determining the still-water
3 elevations and the wave run-offs and other
4 things of that nature.

5 Overall, it seems like they are,
6 but I would have loved to have seen
7 something in writing that tells those good
8 intended FEMA partners that they have that
9 authority.

10 CHAIRMAN VITTER:

11 Right, okay.

12 SENATOR CASSIDY:

13 David, can I?

14 CHAIRMAN VITTER:

15 Sure.

16 SENATOR CASSIDY:

17 Jerry, how much more will it cost
18 to build a home compliant with these
19 recommendations, two to three feet higher
20 than currently being elevated?

21 MR. PASSMAN:

22 Well, when we build in a flood
23 area and we have to build a pad for it, we
24 typically figure about ten -- and it depends
25 on the size of the home. I mean, you know,

1 obviously a 2,000 square foot house is going
2 to cost less than a 3,000, but say the
3 average house I build is 22, 2300 square
4 foot. We generally figure 10 to 12,000 feet
5 per foot higher that we have to build the
6 house.

7 SENATOR CASSIDY:

8 So if you have to build it three
9 feet higher, it will be \$36,000 more for the
10 same square footage?

11 MR. PASSMAN:

12 That is correct, yes.

13 SENATOR CASSIDY:

14 And, David, if you're reselling
15 your home, and people rode down the block,
16 and this one's three feet higher than yours,
17 at least, in my mind, it makes me think that
18 the one that's not elevated is at greater
19 risk. Will that affect the resale, if there
20 is a patchwork of homes elevated and homes
21 not?

22 MR. McKEY:

23 I don't think it's any doubt that
24 it will. And, again, as I mentioned
25 earlier, perception is reality, so when they

1 do see that elevated home and they see that
2 one that's built on a slab, I think -- the
3 first thing, in their mind, is how much in
4 flood insurance am I going to have to pay
5 for the one that's just a slab house, and it
6 makes it less appealing, No. 1.

7 And No. 2, again, the likeliness
8 of that house selling is going to be reduced
9 pretty dramatically and it's going to have
10 an impact not only on that house, but it's
11 also going to have an impact on that house
12 that you just put 35,000 additional dollars
13 in.

14 SENATOR CASSIDY:

15 I see. So it drags down that
16 value because of the surrounding property.
17 And by the way, my point with Roy, who was
18 here, of course, we want higher and better,
19 but you could, you know, build a castle, and
20 it's not practical, but at some port there's
21 a cost-benefit ratio.

22 MR. McKEY:

23 That's correct, yes.

24 SENATOR CASSIDY:

25 Okay. David.

1 CHAIRMAN VITTER:

2 Great, okay. We're going to wrap
3 up. Thanks to all of our witnesses on the
4 second panel who have given a great
5 Louisiana real-world perspective. Let's
6 give them a round of applause.

7 (Applause).

8 CHAIRMAN VITTER:

9 And thanks to all of you.
10 Obviously, the Flood Insurance Program,
11 flood mapping, all of those related issues
12 are critically important to south Louisiana,
13 they're important to small businesses,
14 they're important to economic growth, and
15 that's why we had this town hall meeting and
16 hearing, and that's why Bill and I, with the
17 rest of our delegation, will continue to
18 work on these crucial issues, and we
19 certainly don't want this exchange to be an
20 isolated visit.

21 I believe each of you walking in
22 got a hand-out. On the left-hand side of
23 the hand-out, in that blue column, is all of
24 my contact information, so please keep that
25 handy and please don't hesitate to call,

1 write, email about these and other related
2 issues, whenever it's appropriate.

3 Thank you all very much. Thank
4 you for being here today.

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