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## Testimony of the National Association of Flood and Stormwater Management Agencies

Presented by Steve Fitzgerald, PE  
NAFSMA Director and  
Flood Management Committee Chair  
Chief Engineer, Harris County Flood Control District,  
Houston, Texas

### **“The Water Resources Development Act of 2007: A Review of Implementation in its Third Year”**

U.S. House of Representatives  
Committee on Transportation and Infrastructure

Rep. James L. Oberstar, Chairman

March 3, 2010

The National Association of Flood and Stormwater Management Agencies (NAFSMA) is very pleased to submit this testimony regarding the implementation of the Water Resources Development Act of 2007 (WRDA 2007) on behalf of its membership.

### **Background on NAFSMA**

NAFSMA is a 30-year old national organization based in the nation's capital that represents local, regional and state flood and stormwater management agencies, most of which are in large urban areas. Its members serve a total of more than 76 million citizens by providing flood and/or stormwater management. As a result, the association has taken an active role and has a strong interest in the implementation of WRDA 2007. For the record, NAFSMA members supported passage of this bill in the fall of 2007 because it was needed to address water resource problems in communities across the United States. At the same time, we recognize the key to successful implementation is the interpretation and subsequent implementation guidance for each provision.

NAFSMA's mission is to advocate public policy and encourage technologies in watershed management that focus on issues relating to flood protection, stormwater and floodplain management in order to enhance the ability of its members to protect lives, property, the environment and economic activity from the adverse impacts of storm and flood waters.

Formed in 1978, NAFSMA works closely with the U.S. Army Corps of Engineers (Corps), the Federal Emergency Management Agency (FEMA), and the U.S. Environmental Protection Agency (EPA) to carry out its mission. NAFSMA members are on the front line protecting their communities from loss of life and property, while also improving the quality of the nation's surface waters and riparian habitats. In addition, NAFSMA members are dealing directly with increased populations, strained resources, environmental and regulatory challenges, and are helping to guide design and construction of low flood risk and affordable neighborhoods.

Responsibilities of NAFSMA members are diverse and include: local sponsorship for federal and non-federal flood risk management (including levees), ecosystem restoration and other water quality projects; operation and maintenance of federal and local flood damage reduction projects; establishing and enforcing criteria for new land development; building codes; environmental stewardship; activation before, during, and after floods; flood recovery; and actively communicating risk and preparedness with constituents and the public. Our members use a variety of flood risk management "tools" in their communities such as land use and development planning, building codes and other

floodplain regulations, flood warning systems, and home residential and business buyouts (non-structural measures); and detention basins, improved channels, and levees (structural measures). In summary, our members have direct and day-to-day experience complying with provisions in WRDA 2007, as well as a specific interest in project authorizations for their communities.

NAFSMA is pleased to present the following views from a non-federal sponsor perspective on the “The Water Resources Development Act of 2007: A Review of Implementation in its Third Year”.

### **Titles I and III –VIII: Specific Studies and Projects**

While the specific studies and projects included in WRDA 2007 authorize vitally important water resources projects throughout the nation, NAFSMA does not get directly involved in individual federally-partnered projects.

### **Title IX: National Levee Safety Program**

The National Committee on Levee Safety was established, performed the necessary work, prepared an excellent report and continues to function effectively and productively.

NAFSMA believes that significant progress has been made on several of the Committee’s 20 recommendations since your hearing on this topic last May. However, there is still much work to be done, including possible legislation. One of the critical recommendations (Recommendation 2) that has seen the most substantial progress is the completion of the National Levee Inventory and Database. We believe that the Corps, FEMA, and Congress are working well together toward completing this recommendation; however, additional authority is needed to include those levees throughout the nation owned and operated by non-federal entities.

There has also been and will continue to be progress on the recommendation to develop tolerable risk guidelines (Recommendation 5) with the Corps’ sponsoring of a tolerable risk workshop later this month. The Corps and FEMA have also worked to address challenges presented by the certification terminology (Recommendations 6, 7 & 8) and the Corps is working to develop approaches, skills and training for overall flood risk communication (Recommendation 9). With its recently proposed policy for requesting variances from its vegetation guidelines, the Corps is also making some progress to address Recommendation 12 of the report to develop and implement measures to more closely harmonize levee safety activities with environmental protection requirements.

## **Title II: General Provisions**

NAFSMA has primarily focused on the general provisions in WRDA 2007 related to flood risk management. In carrying out these provisions, the Corps has had a challenging task of implementing or developing guidance for more than 47 general provisions. The Corps has worked to address the more time critical provisions first, and is continuing to produce written guidance. From the local perspective, active studies and projects are not being held up waiting for new implementation guidance.

- **Independent Peer Review (Section 2034) and Safety Assurance Review (Section 2035)**

Most NAFSMA members concurred with these provisions as authorized in WRDA 2007. It is indeed challenging to address the multiple interdependent and interrelated factors that influence water resource analysis, evaluation, and decisions in a comprehensive manner. It takes a multidisciplinary team to move these approaches forward. NAFSMA welcomes any assistance in this area provided it is helpful in advancing the study, results in improvements to the project, and does not hinder progress. In practice, many feasibility studies, some that were near completion, have been delayed to comply with new requirements instituted by WRDA 2007, AND to add insult to injury, no substantial improvement in the recommended course of action resulted. IEPR will be more beneficial if actually utilized as WRDA states, “In all cases, the peer review shall ... be accomplished concurrent with the conducting of the project study.” In contrast, most after-the-fact reviews are not beneficial.

- **Water Resources Principles and Guidelines (Section 2031)**

- NAFSMA appreciates the opportunity to participate in updating the Principles and Guidelines which has been the cornerstone for identifying federal flood damage reduction projects for over 25 years. Since local sponsors are active partners with the federal government for Corps of Engineers flood risk management projects, we will be working directly with the Corps in applying the updated Principles and Standards to identify future joint projects.
- While there have been a few attempts to move this update forward and some may feel frustrated, we recognize the complexity of the issues and diversity of interests in addressing both fundamental and specific topics contained in the Principles and Guidelines. This extended time and effort was not wasted, but necessary to get where we are today which is a good start on the Principles and Standards.

- While NAFSMA supports and agrees with most of the December 3, 2009, draft Principles and Standards, we feel there are some areas where clarifications and/or changes are needed as we move forward to finalize the P&G:
  - Identifying how the new P&G will apply to ongoing studies needs clarification since its application could have a critical impact on delaying and increasing the cost of ongoing studies. NAFSMA supports the language in WRDA 2007, which indicates that the new P&G should not apply to studies already started, unless the non-Federal sponsor requests it.
  - As proposed, the new Principles and Standards seem to favor environmental protection and restoration over economic and social benefits. While we understand some believe that historically there has been a bias toward economic benefits, it is imperative that future water resources planning recognize and emphasize the need for balance and the interdependency of economic, environmental, public safety and social factors.
  - It is our belief that active participation by both the Federal and non-Federal sponsor during all phases of the planning process is critical to the success of any federal water resources study and subsequent project. In the case of Corps of Engineers flood risk management projects, the local sponsor is an active partner with the federal government in terms of contributing funding, local knowledge, and expertise.
  - While the Principles and Standards are important, it is the development and implementation of Interagency Guidelines and Agency-Specific Procedures that are most critical. These documents need to be developed in conjunction with input from non-federal sponsors. Each agency's procedures should be made available for public comment, and prior to adopting the specific procedures, the agency should confirm broad local sponsor and public support.
  - NAFSMA members are concerned that the new Principles and Guidelines will make the planning process even longer, more expensive, and more complex than it is now. Federal agencies must recognize resources, funding, and patience are limited. To fully appreciate how the proposed Principles and Standards will change the Corps of Engineers planning process, NAFSMA recommends that the Corps and NAFSMA work through an example flood risk reduction study from initiation to completion while the National Academy of Sciences is preparing its comments. This effort could help not only completion of the Principles and Standards, but also the timely development of sound and sensible

Interagency Guidelines and Agency Specific Procedures that can help streamline the process.

- **Planning (Section 2033 ) and Streamlining (Section 2045)**

The current planning process is a long, complex and costly planning exercise that does not necessarily yield better flood reduction projects. As “problems” developed over the years, the solution has often been the addition of more steps instead of addressing the real problem. The result is that the quality of work and accountability has declined. We are all frustrated.

What is being done about it? Last year, NAFSMA established a working group to address this topic. We understand this is also receiving serious attention from both the Corps of Engineers senior leadership and from Secretary Darcy’s office. Also, based on two provisions in WRDA 2007, Planning and Streamlining, it is evident that Congress wants change, as well. We are convinced that it will take a sincere, considerable, and collaborated effort from local sponsors, the Corps, and Congress in coordination with OMB and CEQ to make any significant and worthwhile changes. We now have the opportunity to make many of these needed changes in the updated Principles and Guidelines, and corresponding agency specific procedures

### **Need for WRDA 2010?**

WRDA 2007 was a much needed piece of legislation and helped us take a step forward in developing and protecting our Nation’s critical water resources. We have learned much and accomplished much, but there is still much to do. It is now time to continue our work and take the next step forward by pursuing the passage of a WRDA 2010 bill to continue to meet our critical water resources needs, produce jobs and protect the nation’s population, environment and critical infrastructure.

### **Closing**

In closing, NAFSMA commends the Committee for focusing on these critical issues and very much appreciates this opportunity to testify. Please contact me or our Executive Director Susan Gilson if we can provide any further assistance on these issues.