

Supreme Court and served 3 years as the chief justice. In 1980, he was the first Alaskan appointed as a judge to the Federal Ninth Circuit Court of Appeals and served as a Federal judge for more than 30 years until his death in 2011.

Judge Boochever's commitment to the law and service made him a well-respected jurist, and so I am pleased to be the sponsor of this legislation. I support the passage of this legislation and urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. COSTELLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4347 designates the United States courthouse located at 709 West Ninth Street in Juneau, Alaska, as the Robert Boochever United States Courthouse.

Mr. Speaker, Judge Boochever will always be remembered for his outstanding legal expertise and his extraordinary role in the Juneau community, making it appropriate for the new United States courthouse in Juneau, Alaska, to be designated as the Robert Boochever United States Courthouse.

Mr. Speaker, I support this legislation and encourage my colleagues to support the legislation and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I urge passage of this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 4347.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AUTHORIZING STATE OR LOCAL GOVERNMENT TO CONSTRUCT LEVEES ON CERTAIN PROPERTIES

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2039) to allow a State or local government to construct levees on certain properties otherwise designated as open space lands.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 2039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEVEES.

(a) DEFINITIONS.—In this section—

(1) the term “Administrator” means the Administrator of the Federal Emergency Management Agency; and

(2) the term “covered hazard mitigation land” means land—

(A) acquired and deed restricted under section 404(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)) before, on, or after the date of enactment of this Act; and

(B) that is located—

(i) in North Dakota; and

(ii) in a community that—

(I) is participating in the National Flood Insurance Program on the date on which a State, local, or tribal government submits an application requesting to construct a permanent flood risk reduction levee under subsection (b); and

(II) certifies to the Administrator and the Chief of Engineers that the community will continue to participate in the National Flood Insurance Program.

(b) AUTHORITY.—Notwithstanding clause (i) or (ii) of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)), the Administrator shall approve the construction of a permanent flood risk reduction levee by a State, local, or tribal government on covered hazard mitigation land if the Administrator and the Chief of Engineers determine, through a process established by the Administrator and Chief of Engineers and funded entirely by the State, local, or tribal government seeking to construct the proposed levee, that—

(1) construction of the proposed permanent flood risk reduction levee would more effectively mitigate against flooding risk than an open floodplain or other flood risk reduction measures;

(2) the proposed permanent flood risk reduction levee complies with Federal, State, and local requirements, including mitigation of adverse impacts and implementation of floodplain management requirements, which shall include an evaluation of whether the construction, operation, and maintenance of the proposed levee would continue to meet best available industry standards and practices, would be the most cost-effective measure to protect against the assessed flood risk and minimize future costs to the federal government;

(3) the State, local, or tribal government seeking to construct the proposed levee has provided an adequate maintenance plan that documents the procedures the State, local, or tribal government will use to ensure that the stability, height, and overall integrity of the proposed levee and the structure and systems of the proposed levee are maintained, including—

(A) specifying the maintenance activities to be performed;

(B) specifying the frequency with which maintenance activities will be performed;

(C) specifying the person responsible for performing each maintenance activity (by name or title);

(D) detailing the plan for financing the maintenance of the levee; and

(E) documenting the ability of the State, local, or tribal government to finance the maintenance of the levee.

(c) MAINTENANCE CERTIFICATION.—

(1) IN GENERAL.—A State, local, or tribal government that constructs a permanent flood risk reduction levee under subsection (b) shall submit to the Administrator and the Chief of Engineers an annual certification indicating whether the State, local, or tribal government is in compliance with the maintenance plan provided under subsection (b)(3).

(2) REVIEW.—The Chief of Engineers shall review a certification submitted under paragraph (1) and determine whether the State, local, or tribal government has complied with the maintenance plan.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Missouri (Mr. CARNAHAN) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on S. 2039.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the gentleman from North Dakota (Mr. BERG) be permitted to control the balance of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. BERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate bill S. 2039 is a bipartisan bill sponsored by Senators from North Dakota CONRAD and HOEVEN, which passed the Senate by unanimous consent in January of this year. This bill will provide a great deal of help to the citizens of our State.

The text of S. 2039 allows for a process of building permanent levees on Federal land in North Dakota, with the approval of FEMA and the Army Corps of Engineers. I want to highlight the unique situation we have in North Dakota, and this legislation intends to address just that.

First of all, Fargo, North Dakota. It has faced repeated flooding along the Red River, which runs through the heart of the city. The city has constructed a permanent levee that runs along as much of the river as possible. However, over the years, some properties have been bought out along the riverbank with Federal funds.

□ 1740

As a result, we have a patchwork of properties that exist along this levee system with gaps in the system. Recurring flooding along the Red River requires temporary levees to go up nearly every year only to be taken down, and what happens, repeatedly, over and over, is a taxpayer waste of money.

Minot, North Dakota, will have the same problem. As my colleagues know, Minot faced enormous flooding last spring. Thousands of homes were lost, and the community sustained hundreds of millions of dollars in damages. The city of Minot now plans to rebuild a major new flood protection system, including rebuilding the levees that were in place. This is in the middle of the city along the Souris River. This means that Minot will face the same frustration and expense of constructing and removing temporary levees year after year, just as it is in Fargo.

The solution is to simply permit levee construction on federally purchased property in these areas of North Dakota, with the approval of FEMA and the Corps. It's important to note that in both Fargo and Minot, a levee will be in place regardless of this legislation.

What this commonsense bill is trying to prevent is the absurdity and the expense to taxpayers of building and then taking down a temporary levee every year every time there's a flood.

This bill does contain important restrictions to ensure undue Federal costs are not incurred. Under this bill, before approving any project, FEMA and the Army Corps of Engineers must first determine that the levee will be effective in mitigating against the flood risk versus having an open floodplain, that permanent levee flood protection would be the most cost effective measure to protect against flood risk and minimize the future cost to the Federal Government, and also, that the State or local government seeking to build the levee has provided adequate, detailed plans for maintenance of the proposed levee and the State or local government has a detailed finance plan to pay for it.

All of the above must be demonstrated before the construction plan can be approved. Furthermore, this Federal review itself must be paid for entirely by the local or State government.

Mr. Speaker, the construction of a permanent levee is far more fiscally responsible than the annual costs associated each year with tearing down, building and tearing down these temporary levees. Most importantly, this legislation eliminates the cost that FEMA and the Corps of Engineers have already incurred time and time again as they're forced to build these and tear them down, the temporary levees in the State of North Dakota.

This legislation provides better stewardship of taxpayer dollars. It provides sound protections against future Federal expense, and it will save the local, State and Federal Government money. Most importantly, it will ensure better flood protection for the communities of Minot and Fargo in North Dakota.

I ask my colleagues for their support of this legislation and reserve the balance of my time.

Mr. CARNAHAN. Mr. Speaker, I yield myself as much time as I may consume.

With respect to the gentleman from North Dakota, there are some differences on this bill.

I rise to ask my colleagues to vote "no" on S. 2039, a bill that would increase the likelihood of flooding along the Missouri River that impacts several States, putting millions of people at risk. This legislation has not had a hearing in either the House or the Senate, nor has the public or impacted federal agencies had an opportunity to weigh in.

The bill goes against longstanding Federal policy that would still apply to the other 49 States—just not North Dakota. Once Federal funds are used to relocate communities and buildings out of floodplains, that land is meant to be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational or wet-

lands management practices. This bill would stop that from happening in North Dakota, despite the fact that the issue was already addressed with specific allowances for communities in North Dakota in the recently signed into law Biggert-Waters Flood Reform Act of 2012. This bill that's on the floor today doesn't require local communities to reimburse the Federal Government and taxpayers for those previous buyouts.

Without hearings, it's hard to understand why S. 2039 is even necessary. Mr. Speaker, floods are the most frequently occurring natural disaster in this Nation. They happen in all 50 States. According to NOAA, there has been a steady increase in the U.S. of extreme flooding events. In fact, my home State of Missouri has had its fair share. In 2008, we faced a 200-year flood. In 1993, it was a 500-year flood. We're talking about incredibly abnormal levels of flooding that would only be exacerbated by this bill.

Last year, in St. Louis, we faced millions of dollars in losses because of weeks upon weeks of flooding. Again, it was a flood that the Army Corps of Engineers expects to occur every 10 to 25 years. River barge traffic, transporting billions in crops, were delayed. Riverboat casinos were closed for 6 to 8 weeks. Estimates of farmland crop damage was as high as \$2 billion.

Missouri was not the only State to suffer. Kentucky saw \$5 million in damage, and 1,300 homes around Memphis were damaged. Mississippi suffered hundreds of millions of dollars of damage. This devastation was not from rainfall in Missouri or in the other States affected. It was created by runoff a thousand miles north in North Dakota.

Increased rainfall in that State leads to flooding downstream in my State and others. This bill would allow levees to be created that would greatly increase the chances of that flooding. Rather than exempting North Dakota from the Stafford Act, we should be returning North Dakota to a natural state of marshes and wetlands along the river. These areas absorb significant amounts of water, slow runoff water and minimize the frequency that streams and rivers reach catastrophic flood levels.

Rather than protecting the environment and letting nature do what it is designed to do, this bill would set precedent for other States—increasing catastrophic flood levels across the country and devastating our Nation's businesses, farms and infrastructure.

Therefore, I urge my colleagues to vote "no" on this bill, and I reserve the balance of my time.

Mr. BERG. Mr. Speaker, I yield myself such time as I may consume.

I want to just really make this perfectly clear. This is not affecting the Missouri River. This is focused on a very flat area in the eastern part of our State. As was mentioned, this came through the Senate with unanimous

consent. Senators along the Missouri River from North Dakota all the way down were supportive of this.

The essence of this problem is that we have a levee. This is a downtown levee that's in a city, and there are gaps there. And what happens is when there's a flood—and every year we have a recurring flood—a temporary levee is put in. Trucks come in and clays come in, it tears it up, and they build it, and as soon as that's done, it's all torn down again. This is disruptive, and it impacts the natural habitat there. That is where this is focused to be.

The other thing that is really important here that I would like to stress, this legislation requires the Corps of Engineers to approve it. Those of us who have been dealing with the Missouri River know the Corps management would not approve of anything that would disrupt the Missouri waterway all the way down.

Mr. Speaker, this is an urgent thing. The reason it's urgent is our State has had 10,000 people dislocated from 4,000 homes, and these people had the uncertainty of not knowing where they can rebuild, what they can do. This will help the city of Minot move forward with their housing needs. There are 1,400 families that are currently not back in their homes. They're living in trailers, living with neighbors and living with friends. They're not sure when these temporary levees go down what they should do next. That's really the urgency of this bill, and why that's why it's before you today.

So, Mr. Speaker, I do urge my colleagues to support this bill, and I will reserve the balance of my time.

Mr. CARNAHAN. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

□ 1750

Mr. BLUMENAUER. I appreciate the gentleman's courtesy as I appreciate his leadership on this issue. He comes from an area that has seen its own devastations in terms of flood.

We're talking about a river system where we have engineered the area, and we have been fighting for years to try and attain an appropriate balance.

This is not a fiscally responsible approach. It's interesting that it is opposed by Taxpayers for Common Sense, the National Taxpayers Union, the American Conservative Union, the Competitive Enterprise Institute, who have joined in common cause with a wide array of environmental organizations, as well as the professionals who deal with the management of floodplains, the Association of State Floodplain Managers, and a vast array of businesses, particularly those that are involved with the insurance and reinsurance. This is a prescription for disaster.

Now, bear in mind that in the transportation bill—recently approved—there were proposals that were part of the flood issue that were for five parcels. This legislation—that as my

friend from St. Louis points out has never had a hearing—would open it up to some 37,000 units of land in North Dakota. It doesn't restrict it.

Additionally, it doesn't require that the Federal Government—that paid for this land to be taken and put in a natural state where it could absorb the floodplain, the floodwaters—that they get this for free.

Now, Mr. Speaker, I've worked in flood insurance reform now for over 10 years. The last major flood insurance bill I was coauthor with my good friend, Doug Bereuter. We worked hard to try and make sure that we weren't going to subsidize people to live in places where nature has shown repeatedly that they don't belong, and that we weren't going to be in a situation where one part of the Federal Government subsidizes to move the problem downstream.

What we see repeatedly is that, with major river systems that are fortified, that we try and fight against nature by putting in a series of levees. What it does is it channels that water, it accelerates and it moves it downstream and actually makes flooding worse.

Now, it also, in a very perverse way, increases the risk in some of these areas that get levees, because ultimately there are floods. When you put a levee in, you give the illusion of safety, and then there's more development behind the levee. So instead of having natural area absorbing the runoff and avoiding loss—because the taxpayers are now off the hook for loss in these areas that we have purchased and returned to a natural state—then you have the cycle repeating.

There's a reason this vast array of organizations are opposed to it. It's not environmentally sound; it's not fiscally sound; it violates important principles of flood control; it's going to make it harder for people. Bear in mind, these parcels were voluntarily purchased, but are people going to give up land in the future if it might be subject to a levee and development and a repetition of flooding? I think not.

So I would really hope that my colleagues pay careful attention to this legislation. Look at the vast array of groups and organizations that are opposed to it. Question why it is coming to the floor without ever having a hearing. And most important, look at the devastation that will occur if we move away from these established principles. Listen to the floodplain managers. Listen to the environmentalists. Listen to the taxpayer advocates. Protect the system. Reject this ill-conceived measure.

GROUPS OPPOSED TO S. 2039

Taxpayers for Common Sense; R Street; National Taxpayers Union; SmarterSafer.org; American Consumer Institute; American Conservative Union; Competitive Enterprise Institute; Less Government; Association of Bermuda Insurers and Reinsurers; National Association of Mutual Insurance Companies; National Flood Determination Association; Reinsurance Association of America; National Leased Housing

Association; Association of State Flood Plain Managers.

Institute for Liberty; National Fire Protection Association; Friends of the Earth; American Rivers; Ceres; Defenders of Wildlife; Environmental Defense Fund; National Wildlife Federation; The Nature Conservancy; Republicans for Environmental Protection; Sierra Club; Clean Air-Cool Planet; ConservAmerica; Association of State Wetland Managers.

Mr. BERG. Mr. Speaker, I yield myself such time as I may consume.

I mean, these are exactly why we need to do this. I mean, there's passion when it comes to floods, passion when it comes to levees. What concerns me is people don't understand probably what the Red River Valley is like. This is flat. When there's a break in the levee, this is not just a few homes, this will be miles and miles and miles.

I want to be very clear: the levee will be there, it's going to be there. The only thing we're doing here is, right now, the Federal Government, when there is a flood, pays for this. The Federal Government shares in the cost to build a temporary levee. A month later, they pay for it to tear it down—time and time again.

If you're concerned about the environment or you're concerned about disruption, this is where we need to have that part of a levee system, a permanent levee system that's already in place that has very little impact on the environment.

As we can work through these commonsense things, these commonsense solutions, this will help build a relationship so we can solve these problems and move longer term, both in flood protection as well as the Missouri River.

Again, just to reiterate that point: this bill has nothing to do with the Missouri River—in fact, it did pass under unanimous consent in the Senate, with the Senators up and down Missouri supporting it.

I reserve the balance of my time.

Mr. CARNAHAN. Mr. Speaker, again, I think we're seeing the complexity of this issue.

I just want to follow up on the gentleman from Oregon's remarks, that the groups that have weighed in on this bill, from taxpayer groups on the conservative side, to professional managers, to more progressive environmental groups have weighed in against this bill.

Under the previously agreed general leave request, I want to include letters and statements in opposition to S. 2039 from over 30 national and State organizations, including the Association of State Floodplain Managers, Taxpayers for Common Sense, the National Taxpayers Union, the Competitive Enterprise Institute, American Rivers, the National Wildlife Federation, the Nature Conservancy, and Republicans for Environmental Protection—not a list of groups you often see on the same page, Mr. Speaker.

With that, I yield back the balance of my time.

TAXPAYERS FOR COMMONSENSE, R STREET, NATIONAL TAXPAYERS UNION,

July 23, 2012.

DEAR REPRESENTATIVE: We are strongly opposed to S. 2039, a bill that is on the suspension calendar for a vote today. This bill would allow communities in North Dakota to construct levees on land that was so flood-prone that federal taxpayers bought out the property owners on the condition of no future development. Construction of the levees will inevitably lead to more high risk development and future costs to taxpayers. In short, the taxpayer will be forced to pay twice or more.

The Federal Emergency Management Agency Hazard Mitigation Grant Program (HMGP) enables voluntary buy-outs of frequently flooded property, and to prevent future losses (and costs to the federal government) the communities agree not to develop the property in the future.

Instead of rectifying specific instances where problems with the program may have arisen, or pursuing other solutions, this bill applies broadly across the state of North Dakota. In fact, while this legislation is specifically targeted at North Dakota, the bill would set a precedent that could have national implications. And it would trigger potentially significant future costs that would be avoided by simply not building on the land as was originally agreed. In fact, taxpayers would be subsidizing the levee construction by purchasing the land, which would enable the future levee project and the local cost-sharing partner to avoid real estate fees. A costly pattern could develop: the federal taxpayer buys the property and a short while later the community opts out of the program and builds a levee on the "free" land.

We urge you to oppose S. 2039. This controversial bill should not have been placed on the suspension calendar and should not be approved. For more information contact Steve Ellis at 202-546-8500 x126 or steve.taxpayer.net.

Sincerely,

STEPHEN ELLIS,
Vice President, Taxpayers for Common Sense.

ELI LEHRER,
President, R Street.

ANDREW MOYLAN,
Vice President of Government Affairs National Taxpayers Union.

SMARTERSAFER.ORG

DEAR REPRESENTATIVE: As a diverse coalition of taxpayer advocates, environmental groups, and insurance interests, we write to express our concerns regarding S. 2039, a bill that would exempt the state of North Dakota from Stafford Act requirements designed to protect property, the environment, and taxpayer interests.

As currently written, the Stafford Act requires that once federal funds are used to relocate communities and buildings out of floodplains, the land will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreation, or wetlands management practices. S. 2039 would allow communities that voluntarily accepted buyout funds and agreed to maintain the bought out land as open space to no longer abide by their agreements. This will negatively impact wetland protection, wildlife habitat, and water quality as well as burden taxpayers.

S. 2039 was proposed to address a circumstance in North Dakota in which temporary levees are built on land bought out

under the Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program (HMGP) during a flood. The legislation gives North Dakota—and no other state—the ability to build permanent levees on land purchased with federal dollars and deed restricted as open space. This would allow for development on land that is restricted as a result of the buyout.

The bill undermines the purpose of the Hazard Mitigation Grant Program (HMGP). Property acquisition for open space under FEMA's mitigation programs is a commonsense flood risk management approach. Communities can choose to relocate homes and businesses that are in flood-prone areas, eliminating the risk of flooding to those structures and eliminating the need for federal taxpayers to pay for recovery every time the structures flood. The space remains deed-restricted open space to ensure that the taxpayer investment in that area is preserved. Even better, it absorbs flood waters that would otherwise flood areas downstream. These important goals are undermined by S. 2039.

Federal taxpayers have already paid once to purchase the land in question, and the open space requirement ensures that the taxpayers will not have to pay disaster costs associated with this land again. While the Senate's requirement that the bill require state, local, or tribal funding of levee construction represents a slight improvement, federal taxpayers will still ultimately be on the hook for many levees. By enrolling the completed levees in the U.S. Army Corps of Engineers' (USACE) Rehabilitation and Inspection Program, local partners are eligible for the 80% federal share of future rehabilitation and repair costs.

We are also concerned that in the long run, S. 2039 will unintentionally result in harm to unsuspecting North Dakota communities by encouraging more development behind the constructed levees. In addition, flood waters have to go somewhere and, since North Dakota alone will be able to build new levees, flooding may occur in other areas.

FEMA's HMGP buyouts occur most often in deep floodplains, right next to the rivers because these areas receive the heaviest damage to structures. These portions of the floodplains are incredibly valuable for the multiple environmental benefits in addition to their ability to convey and store floodwaters naturally. They also help to clean water and provide areas for recreation, fishing, hunting, and wildlife habitat. In addition, communities that allow room for rivers and protect their floodplains are more resilient to the next flood and often recover more quickly from a flood event.

S. 2039 would only benefit communities in North Dakota; however, it sets a dangerous precedent for undermining mitigation elsewhere.

We understand the challenges North Dakota and other states and communities face as they attempt to recover from floods. However, we do not believe S. 2039 is the solution. A Memorandum of Understanding currently exists between the USACE and FEMA that allows these agencies to provide limited exemptions on buyout land for certain circumstances. Nearly any difficult circumstance could—and should—be addressed through this process rather than by undermining the entire purpose of HMGP.

Sincerely,

SMARTERSAFER.ORG.

MEMBERS

Environmental Organizations: American Rivers; Ceres; Defenders of Wildlife; Environmental Defense Fund; National Wildlife Federation; The Nature Conservancy; Republicans for Environmental Protection; Sierra Club.

Consumer and Taxpayer Advocates: American Consumer Institute; American Conservative Union; Competitive Enterprise Institute; Less Government; National Taxpayers Union; R Street.

Insurer Interests: Association of Bermuda Insurers and Reinsurers; National Association of Mutual Insurance Companies; National Flood Determination Association; Reinsurance Association of America.

Housing: National Leased Housing Association.

Allied Organizations: Association of State Flood Plain Managers; Friends of the Earth; Institute for Liberty; National Fire Protection Association; Taxpayers for Common Sense.

ASSOCIATION OF STATE FLOODPLAIN

MANAGERS, INC.

Madison WI, July 17, 2012.

Controversial Bill will be Considered Today under Suspension of Rules.

DEAR REPRESENTATIVE: Good morning! I wanted to draw your attention to a bill that is being brought up on the House floor today under Suspension of the Rules which the Association of State Floodplain Managers feels is actually very controversial and not suitable for consideration under Suspension. The bill (S. 2039) would allow a State or local government to construct levees on certain properties bought out by taxpayers and designated as deed-restricted, open space land. The measure was passed by the Senate this past winter under Unanimous Consent very shortly after it was introduced so the bill has had exactly zero debate or discussion!

Here are the reasons ASFPM feels it is controversial:

While this bill is limited to North Dakota, it opens the door to do this activity nationally. It would be established as a pilot program. There are more than 37,000 properties nationally that are permanently deed restricted (bought out using taxpayer money) and costing the taxpayers nothing in future flood damage costs or in operation and maintenance costs.

This would turn the Federal Emergency Management Agency Hazard Mitigation Grant Program (HMGP) into a Community Redevelopment Program. FEMA hazard mitigation programs are meant for loss reduction and are intended to use the natural functions of a floodplain for water conveyance and storage. Placement of a permanent levee on the land induces increased development behind the levee and, therefore, increased consequences and costs when the levee fails or overtops. Because participation in mitigation buy-outs is voluntary, less participation can be expected if property owners think their land will be used for redevelopment rather than open space.

Taxpayers will be paying twice for less mitigation than currently exists. Buy-out land can be flooded to any height and not be damaged. What this bill would allow is not only a structure that could be damaged, but also could lead to damage to all of the newly induced development behind the levee. This is what happened in New Orleans after Hurricane Katrina. Levees and floodwalls fail and are overtopped. Taxpayers have already paid for 100% mitigation on these acquired properties.

Levees on deed-restricted taxpayer buy-out land would often lead to poor floodplain management. They will usually be built close to the river since that is where most buy-outs occur. That results in squeezing the river resulting in greater flood heights, greater water velocity and flooding both upstream and downstream of the levee. One alternative would involve the community using CMG or other funds to buy out land be-

hind the deed-restricted land and building a setback levee. Such a levee could be much smaller and retain the deed-restricted land for natural floodplain functions of water conveyance and storage. This bill would have the effect of promoting poor and expensive floodplain management practices.

The bottom line is that this bill sets a terrible precedent, is bad public policy, and should at least have adequate discussion and a hearing by the Congress. Since the FEMA HMGP program has been in place (1988) these deed restrictions have been in place and have worked well across the country. ASFPM was concerned after it passed the Senate and sent the attached letter to the House Transportation and Infrastructure Committee. ASFPM feels a vote under suspension is inappropriate. We hope that your Representative will vote against this measure. Please do not hesitate to contact me if you have any questions.

Respectfully,

CHAD BERGINNIS, CFM.

Executive Director.

THE AMERICAN CONSUMER INSTITUTE, AMERICAN RIVERS, THE ASSOCIATION OF STATE FLOODPLAIN MANAGERS, CLEAN AIR-COOL PLANET, CONSERVAMERICA, FRIENDS OF THE EARTH, TAXPAYERS FOR COMMON SENSE, NATIONAL WILDLIFE FEDERATION, THE NATURE CONSERVANCY.

DEAR REPRESENTATIVE: On behalf of our members and supporters across the nation, we write to express our concerns regarding S. 2039, a bill that would exempt the state of North Dakota from Stafford Act requirements designed to protect property, the environment, and taxpayer interests. As currently written, the Stafford Act requires that once federal funds are used to relocate communities and buildings out of floodplains, the land will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices. S. 2039, which will be considered tomorrow on the suspension calendar, has passed the Senate and now will receive a House vote without receiving any hearings or in depth consideration in either chamber of Congress. This bill would negatively impact wetland protection, wildlife habitat, and water quality while it sticks taxpayers with enormous bills. As such, we urge you to oppose this legislation.

S. 2039 was proposed to address a circumstance in North Dakota in which temporary levees that are built on land bought out under Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program (HMGP) during a flood, be removed following the flood. The legislation gives North Dakota—and no other state—the ability to build permanent levees on land purchased with federal dollars and deed restricted as open space. This proposal, to put it simply, is unwise, financially costly, destructive, and unnecessary.

The proposal is unwise because it violates the purpose of the Hazard Mitigation Grant Program. Property acquisition for open space under FEMA's mitigation programs utilizes a commonsense flood risk management approach. By relocating homes and businesses that are in flood-prone areas, we eliminate the risk of flooding to those structures, and eliminate the need for the federal taxpayers to pay for recovery every time the structures flood. The space remains as deed-restricted open space to ensure that the taxpayer investment in that area is preserved. Even better, it absorbs flood waters that would otherwise flood areas downstream.

HMGP exists for this purpose while the proposed law allows states to work against that explicit purpose.

The bill will also cost an enormous amount of money. The Federal taxpayer has already paid once to purchase the land in question and the open space requirement ensures that the taxpayers will not have to pay disaster costs associated with this land again. In addition, once the levees are built, many people living behind the levees will become eligible for de facto subsidized federal flood insurance that otherwise wouldn't be sold in the area. While the Senate's requirement that the bill require state, local, or tribal funding of levee construction represents a slight improvement, federal taxpayers will still ultimately be on the hook for many levees. By enrolling the completed levees in the U.S. Army Corps of Engineers' (USACE) Rehabilitation and Inspection Program, local partners are eligible for the 80% federal share of future rehabilitation and repair costs.

The law is also destructive. We are concerned that in the long run S. 2039 will unintentionally result in harm to unsuspecting North Dakota communities by encouraging more development behind the constructed levees. The 2011 floods brought images of walls of water flooding homes after levees breached or overtopped, reminding us that it is impossible to out-build Mother Nature. In the long run, flood waters have to go somewhere and, since North Dakota alone will be able to build new levees, many of them will flood other areas. There is no way of getting around this.

This is even worse because FEMA's HMGP buy-outs occur most often in deep floodplains, right next to the rivers, because these are areas that receive the heaviest damage to structures. These portions of the floodplains are incredibly valuable for the multiple environmental benefits they provide in addition to their ability to convey and store floodwaters naturally. They also help to clean water, provide areas for recreation, fishing, hunting, and wildlife habitat. In addition, communities that allow room for rivers and protect their floodplains are more resilient to the next flood and often recover more quickly from a flood event.

In any event, the law simply isn't necessary. No policy—including HMGP's current programs—is perfect and, for just that reason, Memorandum of Understanding currently exists between the USACE and FEMA that allows these agencies to provide limited exemptions on buyout land for certain circumstances. Nearly any difficult circumstance could—and should—be addressed through this preexisting process, rather than by undermining the entire purpose of HMGP.

We understand the challenges North Dakota and other states and communities face as they attempt to recover from floods. Increased federal flexibility can help them do this. But S. 2039, in its current form, is just bad public policy.

Sincerely,

ADAM KOLTON,
*Executive Director,
National Advocacy
Center, National
Wildlife Federation.*

DAVID JENKINS,
*Vice President for
Government and Political
Affairs,
ConservAmerica.*

SARAH WOODHOUSE
MURDOCK,
Acting Director, Climate Change Adaptation Policy, The Nature Conservancy.

STEVE POCIASK,

President, The American Consumer Institute.

STEVE ELLIS,
Vice President, Taxpayers for Common Sense.

BROOKS B. YEAGER,
Executive Vice President for Policy, Clean Air-Cool Planet.

JIM BRADLEY,
Senior Director of Government Relations, American Rivers.

BEN SCHREIBER,
Climate and Energy Tax Analyst, Friends of the Earth.

CHAD BERGINNIS,
Executive Director, The Association of State Floodplain Managers.

AMERICAN RIVERS,
WILDLIFE FEDERATION,

July 16, 2012.

DEAR REPRESENTATIVE: On behalf of our members and supporters across the nation, we write to express our concerns regarding S. 2039, a bill that would exempt the state of North Dakota from Stafford Act requirements designed to protect property, the environment and taxpayer interests. As currently written, the Stafford Act requires that once federal funds are used to relocate communities and buildings out of floodplains, the land will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices. S. 2039, which will be considered tomorrow on the suspension calendar, has passed the Senate and now will receive a House vote without receiving any hearings or in depth consideration in either chamber of Congress. This bill would negatively impact wetland protection, wildlife habitat and water quality and for these reasons, among others, we urge you to oppose this legislation.

S. 2039 was proposed to address a circumstance in North Dakota in which temporary levees are built on land bought out under Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program (HMGP) during a flood which must then be removed following the flood. The legislation would establish a pilot program within the state of North Dakota to allow for the construction of permanent levees on land purchased with federal dollars and deed restricted as open space. We have concerns first, that this legislation would set unwise federal policy and that it may be unnecessary given existing federal policies, and second that the federal government would be unintentionally causing harm to the North Dakota communities seeking to manage their flood risk.

S. 2039 violates the purpose and spirit of the Hazard Mitigation Grant Program—Property acquisition for open space under FEMA's mitigation programs is a common-sense flood risk management approach. By relocating homes and businesses that are in flood-prone areas, we eliminate the risk of flooding to those structures, and eliminate the need for the federal taxpayers to pay for recovery every time the structures flood. The space remains as deed-restricted open space to ensure that the taxpayer investment in that area is preserved, and allows for the storage and conveyance of flood waters without harming life and property.

The Federal taxpayer has already paid once to purchase the land in question and

the open space requirement ensures that the taxpayers will not have to pay disaster costs associated with this land again. Though the Senate bill was amended to require State, local, or tribal funding of levee construction, the bill would create a backdoor for these nonfederal entities to use federal taxpayer dollars. By enrolling the completed levees in the U.S. Army Corps of Engineers' (USACE) Rehabilitation and Inspection Program, local partners are eligible for the 80% federal share of future rehabilitation and repair costs.

We are also concerned that in the long run S. 2039 will unintentionally result in harm to unsuspecting North Dakota communities by encouraging more development behind the constructed levees. The 2011 flooding brought images of walls of water flooding homes after levees breached or overtopped reminding us that it is impossible to out build Mother Nature. No matter how strong or tall we build levees, they still fail, often with catastrophic consequences. Many people living behind these structures don't even know that their homes are in danger. It does not appear that development would be restricted in the inundation zone behind the constructed levees allowed in this pilot program.

Furthermore, while S. 2039 requires the community to participate in the National Flood Insurance Program (NFIP), this program does little or nothing to assist communities that live behind levees. Homeowners who live behind levees are not currently required to purchase flood insurance, and they often assume the levee will protect them. But when the levee is overtopped or fails, the homeowner must rely on federal disaster assistance to recover.

Finally, FEMA's HMGP buy-outs occur most often in deep floodplains, right next to the rivers because these are areas that receive the heaviest damage to structures. These portions of the floodplains are incredibly valuable for the multiple environmental benefits they provide in addition to their ability to convey and store floodwaters naturally. It is estimated that floodplains provide approximately 25% of all terrestrial ecosystem service benefits despite that they only cover 2% of the land surface.¹ These services include clean water, recreation, and wildlife habitat, among many others. In addition, communities that allow room for rivers and protect their floodplains are more resilient to the next flood and often recover more quickly from a flood event.

S. 2039 would only benefit communities in North Dakota. However for the reasons above, it should in no way be expanded to other states or nationwide. We understand that a Memorandum of Understanding currently exists between the USACE and FEMA that allows these agencies to provide limited exemptions on buyout land for certain circumstances. For this reason we question whether this legislation is necessary to address the challenges that North Dakota communities are facing.

We understand the challenges North Dakota and other states and communities face as they attempt to recover from floods. However, we urge you to oppose this legislation.

Sincerely,

JIM BRADLEY,
Senior Director of Government Relations, American Rivers.

JOSHUA SAKS,
Legislative Director, National Wildlife Federation.

THE NATURE CONSERVANCY,
Arlington, VA, July 16, 2012.

Speaker JOHN A. BOEHNER,
U.S. Capitol,
Washington, DC.
Minority Leader NANCY PELOSI,
U.S. Capitol,
Washington, DC.

DEAR SPEAKER BOEHNER AND MINORITY LEADER PELOSI: It has come to our attention that S. 2039, "A Bill to allow a State or local government to construct levees on certain properties otherwise designated as open space lands" is due to be brought up on the House floor tomorrow to be considered Under Suspension of the Rules.

We ask that you oppose this bill as it would set a bad federal policy precedent on a number of fronts. The bill would allow expenditure of federal funds to build a levee on lands where federal funds have been previously expended under the Hazard Mitigation Grant Program (HMGP). Funds under the HMGP have been used to buyout and remove properties that were subjected to high flood risk. The land is then returned to its natural state and acts more effectively to mitigate future floods. The land is permanently deed restricted to ensure that no future development can be built and subjected to flood risk and diminish the floodplain function of absorbing and dispersing flood waters.

If a levee was allowed to be built, federal taxpayers would be unnecessarily paying twice to reduce flood risk. In addition, a levee does not guarantee protection from future flood risk, especially if the flooding event is greater than a 100 year flood (which are occurring at greater frequency due to an increase in extreme precipitation events). In addition, any development occurring in the area would remain at risk to future flooding events.

While we understand that this legislation addresses a specific location, we are concerned about the precedent that this bill would establish for all other areas in the nation where buyouts have occurred under the HMGP program. Such buyouts typically have taken place in areas of repetitive loss under the National Flood Insurance program and thus represent high flood hazard areas. Voluntary buyout and removal of properties is the best way to ensure the future safety of residents and minimize federal expenditures from future flood damage. Allowing levees or other barriers such as sea walls to be built would be extremely costly, undermine the integrity of the natural flood protection provided by existing open space, and provide a false sense of security to the property owners behind such structures.

Thank you for your attention to this matter and again we ask that you oppose this bill.

Sincerely,

ROBERT BENDICK,
Director, U.S. Government Relations.

Mr. BERG. I am prepared to close.

Mr. Speaker, again, Members of the assembly here: there are 1,400 people in Minot that aren't living in their homes—there are 1,400 families, not people. Every year creates an uneasiness on the people that live in this flat valley, in the Red River Valley. This is an important bill. It's critical for long-term planning and clearly will save not only the Federal Government money, but it will save the local government money. It also will save all the volunteer time that goes into building a levee, taking a levee down.

I do believe if you saw the area where this will go, you would agree that a

permanent levee system that ties into the landscaping would really be a positive impact on the wildlife and the habitat in those areas.

With that, I yield back the balance of my time.

Mr. LUETKEMEYER. Mr. Speaker, I rise today to express some concerns regarding S. 2039, introduced by Sen. HOEVEN, and sent to this body after unanimous consent in the Senate. I am concerned that this language, though well intentioned, is vague and could potentially result in negative consequences downstream, should this language be signed into law.

I remain concerned that the language could be applied to rivers beyond the Souris and the Red, without explicit Congressional intent. There is potential, although small, for levee construction to take place up and down the stretch of Missouri River that runs through North Dakota, resulting in negative consequences throughout the Missouri River basin.

I am comforted by the fact that there seems to be a rigorous FEMA review and approval process for construction of these levees, and I trust that the author's intentions are to allow for construction of new levees along only the Souris River and the Red River at specified locations. I appreciate the steps taken by the gentleman from North Dakota, Mr. BERG, to address these concerns and to make very clear for future reference that Congressional intent is to show that this legislation is intended to apply only to locations along the Souris and Red Rivers.

Mr. Speaker, our nation has gone too long without improving our levee systems. I do applaud the efforts to allow municipalities to take into their own hands efforts to rehabilitate systems. At the same time, it is important that they meet all necessary guidelines and do not injure other states and communities along a river bank.

I look forward to continuing this important conversation with the gentlemen from North Dakota.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, S. 2039.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CARNAHAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

□ 1800

NICKY "NICK" DANIEL BACON POST OFFICE

Ms. BUERKLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3870) to designate the facility of the United States Postal Service located at 6083 Highway 36 West in Rose Bud, Arkansas, as the "Nicky 'Nick' Daniel Bacon Post Office".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3870

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NICKY "NICK" DANIEL BACON POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 6083 Highway 36 West in Rose Bud, Arkansas, shall be known and designated as the "Nicky 'Nick' Daniel Bacon Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Nicky 'Nick' Daniel Bacon Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Ms. BUERKLE) and the gentleman from Virginia (Mr. CONNOLLY) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. BUERKLE. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Ms. BUERKLE. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. BUERKLE. Mr. Speaker, H.R. 3870, introduced by the gentleman from Arkansas (Mr. GRIFFIN), would designate the facility of the United States Postal Service located at 6083 Highway 36 West in Rose Bud, Arkansas, as the Nicky "Nick" Daniel Bacon Post Office. The bill is cosponsored by the entire Arkansas State delegation and was favorably reported by the Committee on Oversight and Government Reform on February 7.

Mr. Speaker, First Sergeant Nick Bacon was known for his heroism while he served in the Army during the Vietnam War. During his second tour in Vietnam in 1968, Bacon assumed command of his company when his platoon leader was wounded in open ground. He led his platoon to successfully defeat the enemy gun crew.

When another platoon moved to Sergeant Bacon's location, its leader was also wounded. Without hesitation, Sergeant Bacon took charge of the additional platoon and continued the fight.

He is a recipient of the United States military's highest decoration, the Medal of Honor, as well as numerous other distinctions.

Mr. Speaker, I am truly grateful for the brave and heroic service of first Sergeant Nick Bacon and for all of those who serve and defend our Nation every day.

I urge my colleagues to join me in strong support of this bill.

I reserve the balance of my time.

Mr. CONNOLLY of Virginia. Mr. Speaker, as a member the House Committee on Oversight and Government Reform, I'm very pleased to join my