

GENE TAYLOR
4TH DISTRICT, MISSISSIPPI

COMMITTEE ON ARMED SERVICES
COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

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September 14, 2006

Mr. David I. Maurstad
Director, Mitigation Division
Federal Emergency Management Agency
500 C Street, S.W.
Washington, DC 20472

Dear David:

I am writing to request a meeting with you to resolve an administrative obstacle that has delayed the payment of Increased Cost of Compliance (ICC) assistance to homeowners in Mississippi.

The insurance companies that contact with the National Flood Insurance Program are refusing to process ICC claims unless the local government certifies that all the damage was caused by flooding. These are homes for which the insurance company adjusters immediately assigned damages to flooding and paid flood claims, with taxpayer dollars, that your agency did not question. If NFIP paid the flood claims, and the homes are more than 50% damaged, then you have all the information you need to pay the ICC.

The statute (42 USC Sec. 401(b)(2)) and regulations regarding ICC coverage require local officials to determine that a structure lost 50 percent or more of its pre-disaster value. The statute does not suggest that local officials must determine the cause of the damage. Local officials have neither the authority nor the expertise to determine the cause of hurricane damages. I suspect that the insurance companies are attempting to use their role as gatekeepers in the ICC process to coerce local officials to provide documents that the companies could use to back up their denial of wind claims.

Thousands of homes near the coastline were damaged by a combination of hurricane winds and storm surge. The Mississippi Coast suffered four or five hours of hurricane winds before inundation by Katrina's surge. Any property in Mississippi that was flooded by the surge certainly also suffered wind damages. Insurers in Mississippi have paid hundreds of thousands of wind claims inland, where they could not blame the surge, yet insist that all the damage on the coastline was caused by flooding.

More than 1,000 homeowners have filed suit against their insurance companies. FEMA has no business forcing local officials to take a position on the wind vs. water

disputes. Please act immediately to release the ICC funds without requiring local officials to intrude into the legal dispute.

For almost a year, FEMA has urged local governments to implement the Advisory Base Flood Elevations (ABFEs) so that coastal homes would be rebuilt at higher elevations and to higher standards. On several occasions, I asked you to implement the ABFEs as interim elevations while you proceeded with the long bureaucratic process of adopting new flood risk maps. You refused, and insisted that local government officials had to take the heat of making that decision even though the federal government bears the flood insurance risk.

FEMA representatives promised and promoted the availability of ICC assistance and Hazard Mitigation Grants in order to convince local officials to adopt the new elevations. Now that local officials have adopted higher elevations at your urging, FEMA cannot allow insurance companies to delay ICC assistance or coerce local building officials to take sides in their legal disputes.

Please do not give me a bureaucratic justification for taking the side of the insurance companies against the Gulf Coast residents who are counting on ICC assistance to rebuild their homes and communities. If your agency paid the flood insurance claim, then your agency should pay the ICC claim. This must be resolved as quickly as possible.

Please have your office contact Courtney Littig at 202-225-5772 to schedule a meeting as soon as possible in my office in the Rayburn Building.

Sincerely,



GENE TAYLOR
Member of Congress

GT:jbm



FEMA

September 20, 2006

MEMORANDUM TO: Write Your Own (WYO) Principal Coordinators and NFIP Servicing Agent for Dissemination to All Claims Managers

David I. Maurstad

FROM: David I. Maurstad
Federal Insurance Administrator
National Flood Insurance Program
Mitigation Division

SUBJECT: Substantial Damage Structures Bulletin

As you know, Hurricanes Katrina, Rita, and Wilma caused extensive damage to both residential and commercial buildings. Many of these buildings were substantially damaged as a result of direct physical damage by or from flood. This clarifies the WYO's and NFIP Servicing Agent's roles once the community's substantial damage declaration letter is received in conjunction with Increased Cost of Compliance (ICC) claims as a result of these hurricanes.

The substantial damage letters sent by communities are often form letters and as a result, some of these letters do not state that the peril which caused the substantial damage was a flood.

In order to help the insured become eligible for ICC coverage when the letter from the local official is not sufficient to do so, this bulletin authorizes the WYO's and the NFIP Servicing Agent, either through the adjuster, insured or other reasonable means to contact the local official to determine the market value he or she used to determine that the structure was substantially damaged. It is evident the local official has a figure since it is necessary to make this determination in order to issue the substantial damage declaration.

Once the market value of the structure is obtained from the community official, the WYO Company and NFIP Servicing Agent can then compare the total flood damage to the market value and determine if the flood damage is 50 percent or more. If that is the case, they can proceed with the normal ICC claim procedures. It would not be necessary to ascertain damages from other perils.

If the insured structure has been washed off its foundation, the WYO Company and NFIP Servicing Agent can assume it is substantially damaged by flood.