

**TESTIMONY of**

**Denny Doyle**

**Mayor**

**City of Beaverton, Oregon**

**before**

**The House of Representatives**

**Committee on Transportation and Infrastructure**

**“An Examination of FEMA's Limited Role in Local Land Use Development Decisions”**

**September 21, 2016**

Good morning Chairman Shuster and Ranking Member DeFazio. I am Denny Doyle, Mayor of the City of Beaverton, incoming president of the Oregon League of Cities, and a Board Member of the National League of Cities. Beaverton is located just two short hours north of the majestic tall firs in Congressman DeFazio's Lane County. Thank you for the opportunity to appear before you today to discuss the Federal Emergency Management Agency's (FEMA) role in implementing the National Flood Insurance Program (NFIP) in Oregon and throughout the United States.

As we all know, in 2009 FEMA was sued by environmental groups in Oregon for failing to ensure that the implementation of the NFIP complies with the Endangered Species Act (ESA). In response to the ruling, FEMA consulted with the National Marine Fisheries Service (NMFS), resulting in the recent Reasonable and Prudent Alternatives (RPA) that aims to minimize impacts to ESA-listed species. The final draft of the RPA calls for a drastic expansion of an area to be protected beyond FEMA's current jurisdiction under the NFIP. If the new protected area is imposed on communities, it will have an unprecedented negative impact on economic growth, job creation and new development, including affordable housing throughout Oregon. These NFIP lawsuits are occurring in a piecemeal fashion around the country. I encourage Members of

Congress to be aware that if the impacts you hear about today have yet to affect your Congressional district, they almost surely will in the future.

I have had the opportunity to meet with representatives from both FEMA and NMFS over the past several years in both Washington, DC and Oregon to discuss this situation; and I remain dismayed at the end result of the ESA consultation. During development of the RPA, FEMA repeatedly stated their concerns with the “major legal and practical issues concerning the RPA” and that the “RPA provides little flexibility in how to achieve ‘no adverse effect.’” Therefore, FEMA concluded that they were unsure how the RPA could be made “fully implementable within FEMA's legal authorities.” Yet, here we are with an RPA that FEMA and our Oregon local governments must implement.

We all agree that protection of threatened and endangered species is a high priority. However, Beaverton is an urban community, one with very little undeveloped land. In, or next door to our community, are major corporations such as Nike, Intel, and Columbia Sportswear, to name a few. Given the preponderance of many small streams that may contain threatened or endangered species, such stringent control of development in an arbitrarily-enlarged flood area as proposed by the RPA could deter development for much of our community. Without development or redevelopment by our business community, we cannot create new jobs or continue to improve our community.

For example, a restaurant in Beaverton with a long history of shallow-flood damage has recently been demolished and reconstructed. This pre-Flood Insurance Rate Map building has been rebuilt with a finished floor two-feet higher than the base flood elevation. This is smart, flood-resistant redevelopment. However, such beneficial projects could effectively be precluded in some way by the new RPA.

In another example, a previously developed area located within the RPA-expanded flood zone could not be redeveloped into affordable housing. Significant employers and exporters will also likely be adversely impacted. In general, any development plans within the affected areas

would require costly and time-consuming consultations with NMFS and FEMA, if they were allowed at all.

Finally, I am working hard to create an Arts and Culture Center in downtown Beaverton, adjacent to Beaverton Creek. Even though at this time, ESA-listed species do not exist in the Creek, the RPA will likely force us to implement significant RPA measures when developing and constructing the Arts Center. All of this comes at a cost – a significant one when just raising the funding to develop the Arts Center itself is challenging on its own.

It should also be mentioned that we remain frustrated about the lack of opportunity to provide comments on the RPA. The Congress should know that the iterations of the RPA for Oregon were developed in an apparent vacuum – one that does not respect nor serve the local communities that must ultimately comply with its mandates.

Simply put, the RPA developed by NMFS is unworkable for Oregon and FEMA. It demands action that is unreasonable and potentially unenforceable by FEMA, all at little identifiable value to the species they aim to protect.

Thank you again for the opportunity to testify before you today. I am happy to answer any questions you may have.