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CONGRESS OF THE UNITED STATES  
HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C. 20515

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AND THE INTERNET

March 11, 2025

The Honorable Kristi Noem  
Secretary of Homeland Security  
Department of Homeland Security  
650 Massachusetts Avenue NW  
Washington, DC 20001

Dear Secretary Noem,

I write to raise concerns over the attempts of the Federal Emergency Management Agency (FEMA) to make changes to how the National Flood Insurance Program (NFIP) is implemented in the state of Oregon. These changes would fundamentally change the nature of the NFIP and potentially cause great harm to many communities across Oregon.

Since 2009, environmental groups have been pressuring FEMA to dramatically change the function of the NFIP in Oregon. Submitting to this pressure, in 2010, as part of a settlement with environmental groups, FEMA agreed to consult regarding effects of the NFIP in Oregon on threatened and endangered species and designated critical habitat. In 2016, the National Marine Fisheries Service (NMFS) issued the Oregon NFIP Biological Opinion (Bi-Op). This Bi-Op concluded that FEMA's implementation of the NFIP in Oregon jeopardizes the continued existence of 16 Endangered Species Act (ESA) listed fish species and Southern Resident killer whales.

As a result of this Bi-Op, FEMA agreed to implement draconian measures to mitigate the "impact" of their actions on endangered species in Oregon. This regulatory insanity is completely at odds with the purpose of the NFIP and the function of the ESA. Under Section 7 of the ESA, federal agencies must use their authorities to conserve endangered and threatened species and consult with the Fish and Wildlife Service or NOAA fisheries to meet this goal. However, this is not a universal requirement. According to 16 U.S.C. §1536(a), the consultation obligation is only triggered for discretionary actions that a federal agency may take. Consultation provisions under the ESA do not apply to actions that a federal agency must take pursuant to law. For example, certain groups have attempted to apply ESA's consultation provisions as a means to force localities to change land use laws to make them function as a means of "protecting" certain species.

The NFIP is an insurance program, created to help mitigate the costs of flood damage. It is not, and was never intended to be, a land management tool. I respectfully request that your agency

restore the NFIP in Oregon to its proper purpose and stop the harmful changes that are being attempted. Specifically, I ask that your agency:

- Stop all changes to the NFIP in Oregon that have resulted from the 2016 Biological Opinion.
- Immediately release local communities from all obligations imposed by FEMA as a result of attempts to change the NFIP in Oregon.
- Reevaluate the implementation process of the 2016 Biological Opinion and instruct FEMA to coordinate with the State of Oregon and local communities to develop a more feasible plan that is consistent with state and local land use laws.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cliff Bentz", with a stylized flourish at the end.

Cliff Bentz  
Member of Congress