



September 3, 2010

Subject: Trip Report, National Association of Flood and Stormwater Management Agencies,
August 23-27, 2010

To: Council and Staff

This conference was held in San Diego at the Hotel Coronado. Local attendees:

John Shultz, Attorney for Dike Districts 1 and 12;
Daryl Hamburg, Operations Manager for Dike District 17,
Lorna Ellestad, Corps of Engineers General Investigation Project Manager for Skagit County,
Chal Martin, Burlington Public Works Director, and
Ed Brunz, Mayor of Burlington.

Again this year, the fact that we had a local team representing a number of different governmental entities made us more effective in networking with various government officials, as will be described. This year we were not the only NAFSMA members from Washington State, as representatives from King County and the City of Seattle also attended.

This trip report is a compendium of the observations of all of the participants. NAFSMA has posted all of the presentation materials on its web site here: <http://www.nafsma.org/meetings-upcoming.php>.

The National Association of Flood and Stormwater Management Agencies is a lobbying organization representing, generally, the views of its member agencies which are composed of special purpose districts, cities, counties, flood control districts, and other organizations with operational missions wholly or in part related to stormwater management and flood control. NAFSMA is an organization that has strong credibility with federal agencies who have oversight of policy issues related to flood and stormwater: the US Environmental Protection Agency, FEMA, the Corps of Engineers and the Corps' civilian Secretary of the Army policy overseers; the Council on Environmental Quality, the Federal Service Agencies, and other federal agencies. Through its member agencies and Board of Directors, NAFSMA develops policy papers which form the basis of its Congressional testimony and interaction with the Federal agencies and Congressional Committees involved in the policy development. These policy papers are available on the NAFSMA web page (Google "NAFSMA"). I have attached NAFSMA's main policy papers on Stormwater, Flood Plain Management, and Flooding to this trip report. We have found that NAFSMA's well-considered and straight-forward approaches to these issues are very closely aligned with the views of our Skagit Cities and Towns, Skagit County, and the Dike Districts.

The annual meetings provide an opportunity for NAFSMA's members to receive updates on the latest federal legislation, policy initiatives and other information, and meet with top federal officials who oversee – as well as develop and implement policy on – flood, storm water, and water quality issues. For the Skagit County group, our goals for the conference were:

- 1) Attend the workshops and issue sessions to get the latest information.

- 2) Meet with and introduce ourselves (or re-introduce ourselves) to key federal government executives attending the conference.
- 3) Meet informally with federal officials we had met with previously at last year's October 2009 NAFSMA conference and in Washington D.C. in March 2010 to update those officials on the issues related to the Skagit River. Those issues are:
 - a. Skagit General Investigation study: keeping the study focused and on schedule; correcting flawed work.
 - b. Levee vegetation issue: ensure new levee vegetation policy will require concurrence from local dike districts prior to vegetation being installed on levees.
 - c. Levee emergency repair issue: try to make progress on getting the long-delayed 2006-2008 flood PL84-99 repairs completed.
 - d. FEMA flood map appeal process and Scientific Resolution Panel process: find out more about FEMA's expectations. Ask for a face-to-face provision in the Scientific Resolution Panel process. Discuss the potential to meet again with FEMA's hydraulic modeler. Discuss impact of the NFIP Biological Opinion.
 - e. Impact of biological opinion, and Endangered Species Act (ESA), and matters relating to ESA consultation, compliance, and mitigation relating to dike and levee repairs, improvements, and PL84-99 projects.
- 4) To the extent reasonably possible, set up meetings with those federal officials who might be able to help with our local issues; provide background on our local issues to these officials and request followup actions to move Skagit issues toward resolution.

The first day of the conference (Monday) dealt with stormwater issues and stormwater training. This year, we decided not to attend the stormwater training sessions and instead used this day as a travel day, saving a night of hotel cost and the \$200 additional fee for the stormwater training. Tuesday was the first day of the main conference. The first session included a panel of speakers who addressed the federal perspective on flood and stormwater management issues, and included senior representatives from the Corps of Engineers, the U.S. Environmental Protection Agency, FEMA, and NOAA.

One of the initial speakers was Steve Stockton, Director of Civil Works US Army Corps of Engineers. He mentioned what many speakers had later discussed, that the federal government is under severe budget constraints at every level of government. Also that these budget constraints would be getting worse, and would likely be dire by 2012. He also described problems with declining biodiversity, terrorism threats, demographic shifts, and most importantly, aging infrastructure. He also mentioned climate change being a big issue now with all of the federal agencies. He spoke about a "new hierarchy," in which the Corps is placing importance on "return on investment" and the federal government is stressing returns to the US Treasury. There was also general discussion about loss of jobs in the economy, international competitiveness, and many general items which did not seem to relate to the missions of the Army Corps of Engineers. Stockton did state however, that the Army Corps was committed to improve infrastructure. He stated a recent slogan which had come up: "No levees; no water; no economy; no jobs."

He stated that the Army Corps believed that healthy communities and sustainability and resiliency of infrastructure is of paramount importance to the Corps. It was most important to invest in infrastructure however, neither the Corps nor other agencies have any money to do so. A prevalent theme seemed to be that federal agencies have no money to invest in infrastructure, and they cannot help in repairing infrastructure, but all federal agencies wish to be partners and to continue regulating water resources. He noted the water resource challenges, including vegetation, mentioning Washington, California, and Texas, the Great Lakes, Chesapeake Bay, Columbia River, and others. He also noted the prevalence of recent big floods, including Nashville, Tennessee, and Devils Lake, North Dakota. He also stressed the importance of the collaborative partnerships, and noted that NAFSMA is a critical and important partner for the Corps. He cited the need for stronger partnerships and partnerships to provide restoration of infrastructure, including levees.

Next was Peter Silva, the Assistant Administrator for Water, of the US Environmental Protection Agency. He spoke at length about the new stormwater rules, and noted another recent problem which has been consistently occurring with EPA. That is the generation of controversy and lawsuits. He noted that after issuing the new stormwater rules, EPA was immediately sued by a number of entities. He noted that EPA is resorting to considerable amounts of rule making, including publication in the federal registry regarding stormwater rules and water quality regulations. He noted again that these rules had become very controversial, and implementation has been delayed, to allow for more comments. He noted that EPA has implemented new policies and has become aggressive regarding the inclusion of Green infrastructure in all projects relating to water resources. He noted such proposals as "Green Spaces," involving gardens and other projects, "Green Streets" involving changing of curbs and gutters and diversion of water, "rainwater harvesting" and de-emphasis on use of pesticides. He noted the first attempt at NPDES permits for use of pesticides had become very controversial and had received a lot of push-back. He also indicated that after the Gulf oil spill, EPA wants to aggressively attempt to restore the entire region.

Next was Sandra Knight, the Deputy Federal Insurance and Mitigation Administrator for FEMA. She noted again the theme that many of their regulations had become very controversial, like EPA, with nationwide opposition at many levels. She also admitted that FEMA does not have any money to fix infrastructure and budgetary problems will only get worse. She noted huge flooding in 2010, including North Dakota, Iowa, and Kentucky. She also noted new FEMA projects including the NFIP public policy reform process, the Risk Map process and stressed the importance of the process "only becoming better if local entities share data about their communities." (Apparently she hasn't recently discussed this with Skagit County). She stressed the desire nationwide for FEMA to collaborate with partners. She noted that the Army Corps owns approximately 15 % of nationwide levees, and the communities own the rest. She is hoping to work closely with other resource agencies, including EPA on issues on floodplain management. Also, that FEMA wishes to enhance its credibility nationwide. She also noted that she is very excited about the Federal Interagency Floodplain Management Task Force, or FIFMTF. This is a consortium of 13 federal agencies gathering to deal on issues of floodplain management, including Green policies. A later meeting on this generated some concern among NAFSMA members.

The next speaker was Margaret Davidson, the Director of NOAA. She talked again about lack of money, but was very committed to new regulations. She also noted with humor that governmental entities have noted that fiscal year 2012 will be distinguished with two events, one the end of the Mayan calendar which suggests the end of the world, and the "Federal Armageddon" relating to the anticipated federal budget crisis. A consistent thread throughout the conference seemed to be that although the federal budget now is terrible, the projection for 2012 is very ominous. She also noted that if you don't believe in global warming climate change, you need only look at the record and the extreme climate events which are now occurring including droughts and flood cycles. She noted that the "geeks" with NOAA have launched a website with digital information, including climate services. It is called the Digital Coast and it will be the "NOAA's Climate Portal." It is still in Beta format, but is developing.

She noted that budgets are shrinking and we all need to help each other as partners although she acknowledged that "all politics are local" although she was a strong advocate of federal regulation over local entities. She also noted that the difference between "weather" and "climate" is that weather is today and climate is yesterday, today, and tomorrow and this is what NOAA is focusing on in its climate change studies. She strongly urged partnerships which included the federal government, tribal, state, and local agencies. She also noted that regarding climate issues, "the feds are not the most reliable sources." She also discussed global sea level rise which she predicted would be up to 21 feet in the next 100 years. She also admitted that NOAA "will do more modeling on these issues and can spend millions, without even thinking about it. But they will keep on going." Also she indicated that the future studies will also analyze "ocean acidification." She noted that in Washington state, "the state is caught between NMFP and FNW."

During the question and answer session, John Shultz described some of the problems Skagit County Dike Districts were having with getting cooperation and reliable guidance from the Corps on mitigation for levee repairs, asking the panel how the federal agencies could work better together to decide what mitigation was needed, when there was a conflict and lack of coordination in the federal agencies. He reminded the panel that the damage needing to be repaired

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occurred in 2006 and should have been repaired before the end of the summer of 2007. The panel members, including Pete Rabone, Ed Hecker, Steve Stockton and the NOAA representative had no direct solution for this, other than to state generally that everyone needed to work together in order to come up with an answer that provided adequate mitigation for environmental effects, while also ensuring public safety. The NOAA representative on the panel suggested Bill Ruckelshaus could help mediate a solution through his organization, the Meridian Institute. An overriding theme of the conference from the federal agencies was: federal agency budgets were going to be severely constrained in 2011 and beyond; therefore, the Agencies were looking to partner more with State and Local agencies to implement federal policy decisions.

Another question was asked by a prior FEMA engineer, who told the panel that the current engineering and data in many areas of the country are not good, and is old. He noted the problem with models is that it will take many millions of dollars and many years to refine the models to provide a semi-meaningful analysis at the local level. Further that these models rely on old and inaccurate data which FEMA is not changing.

Following this session, John and Daryl spoke with Steve Stockton, Chief of Civil Works for Corps of Engineers, and asked Steve about ensuring a "concurrency" clause was contained in the new levee vegetation guidance about to be published. John explained in detail how this "concurrency" clause would work, and would result in preventing unilateral action by one party, and would in fact create more harmony in the vegetation policy, because vegetation would only be allowed where the local sponsor and the Corps both concur, and where there is a dispute, it would not be allowed. Also the detailed roadmap for allowing vegetation which includes 12 paragraphs, would fully vet vegetation, environmental, and other policy issues. That this was an excellent process to determine benefits and detriments of vegetation to assure that there is proper review of the science and compliance with the Army Corps regulations which have been in effect since 1935. John also noted to Stockton that the "concurrency" paragraph had been proposed by the USACE Attorney Lance Wood, and then modified and agreed by the Skagit team in the March meeting involving the PowerPoint presentation. It was discussed that this would result in cooperation, and avoid lawsuits, and the USACE Attorney was fully in support of this. Steve told John and Daryl that he would be sure to follow up with their request by speaking with Chief of Engineering James Dalton at Corps HQ, and Tami Conforti (we met both of these folks in March while in D.C.) who are the overall leads on this upcoming guidance.

The Dike Districts want to ensure the new guidance contains a clause requiring concurrence from the affected levee district before a variance is processed to allow trees on levees. This is because without this clause, there is concern that the Seattle District could require trees be planted on the Skagit river levees, even over the opposition of the dike districts, which is exactly what is occurring now. Skagit County Dike Districts are opposed to planting trees on Skagit levees. Trees might work elsewhere, but our experience with trees on levees here indicates they are a hazard during floods. Also listening in on this discussion was Lisa Fleming, a licensed engineer and attorney now working at the Headquarters. Lisa is the new Deputy Chief of Civil Works, Northwestern Division Regional Integration Team, replacing Carole Angier, who has retired. Lisa is interested and engaged in Skagit issues and all of our team members spent time with her providing background on Skagit flood issues. There was a good deal of discussion about having her be assigned to deal with our deferred repairs issues, and involved in our negotiations with NOAA, which are led by Amanda Ogden of the Corps. Lisa stated that she would look into these matters. She had requested, and John had advised that he would provide her with copies of emails regarding the planting of willows and NOAA's acceptance and then rejection of the Dike Districts' mitigation plan, along with the PowerPoint presentation on vegetation which John and Daryl had given at USACE Headquarters in March 2010. Daryl had this comment about the conversation with Steve: "In conversation with Steve Stockton, he tended to be illusive in directly answering any hard questions related to the levee maintenance and vegetation manual. I believe it is in part because it is in rough draft and in part to not take in any comment or information that would be outside the "comment window.""

John and Daryl also pursued the issue of getting the long-overdue emergency repairs completed on the Skagit levees, many of which are left over from the 2006 flood, have not been repaired, and have gotten progressively worse. The Dike Districts, as participants in good standing in the PL84-99 levee repair program, pay 20% of the repair cost. The emergency repairs are conducted by the Corps of Engineers, and the Corps pays 80%. Each repair is completed

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through a contract, which the Dike Districts have signed, and the money has been paid. But the holdup is figuring out how to “mitigate” for the negative environmental impacts of the repair work, which may involve hardening the river side of the levees with rip-rap. Additionally, the Seattle District reorganized how the emergency repair work was administered, which is causing delays. To follow up on this important issue, John and Daryl set up a one-hour meeting Thursday morning with Pete Rabbon, Director, National Flood Risk Management Program, Lisa Fleming, and her boss Ed Hecker, Director, Contingency Operations and Homeland Security and Chief, Northwestern Division Regional Integration Team. All of these folks are Corps of Engineers Headquarters employees.

On Tuesday, Pete Silva of the EPA revealed plans of a new policy program for storm water. This policy will have over 40 new rules on treatment and handling of storm water. Most questions asked were related to implementation and enforcing of the rules. Mr. Silva said that as the rules are implemented there will be opportunity to fine tune the interpretation and use of these rules. The focus of these rules are in effort to clean up Chesapeake Bay but may very well have national repercussions. No specifics were addressed as to what the rules will be, but they should be rolled out within the next twelve months. This could have impacts on the County, Cities and Drainage Districts in our area.

Tab Brown made a presentation on the Corps planning process program development. He stated that the Corps planning capacity has been eroding for years and has been lost; and that it will take time to rebuild. The Corps planning mission is still to determine the federal interest for authorization and make quality credible sound recommendations. To B or not to B? with B = Budget is the real dilemma for Corps studies. “Plus-ups” (Skagit) go to O&M and Construction is 78% of the \$100 million budget. Key points made in Tabs presentation included: 1) Committee is concerned with Corps Planning and the need for Robust Planning; 2) Planning is critical to the Success of projects; 3) Planning is a specialized skill; and 4) the Corps now has a Planning Associates Program and Planning Centers of Experties (PCX). Longer than 10 years is excessive and it is obvious that the Corps needs to improve planning. Goals include 1) Achieve excellens in Planning Execution; 2) WRDA 2007 Implementibility; 3) WRDA Future Development; 4) Modernize Planning Program for 21st Century; 5) Trnsfer the Current Preauthorized studies 6) Strengthen Collaborative Relationships. Entire presentations will be available next week.

The Corps has a Planner Certification Pilot – FY 11 that targets completion of core planning classes and a sustained planning advisory board. There are 7 classes as minimum for journeyman planners and the target is to have 90% of district planners complete this by FY 13. The courses are available at University of Florida “online”. Tab is frustrated that District planners don’t read the planning guidelines but recognizes that the documents are too “thick” and need to be modified to a more “user friendly” format. Goal: A planning process that conducts feasibility studies in 18 months. Objective: Convene task force. Premise: Provide credible, quality and sound recommendations. Note: NAFSMA supports the shorter study timeline and recommends prescreening studies and limiting the total number of studies in the corps process at any one time. NAFSMA also supports a smaller, more concise planning manual that focuses on “how it’s done”.

Lorna spoke with Doug Lamont, Deputy Assistant Secretary of the Army (Project Planning and Review), and set up a lunch meeting with him and Lisa Fleming for Wednesday to discuss the Skagit GI. Tab Brown attended the conference, and spoke Tuesday afternoon about the Corps GI process. Tab stated during that session that any General Investigation should be completed in 10 years or less (the Skagit GI has been ongoing for 14 years, with an expected completion date of 2015). After Tab spoke, Lorna cornered Tab and they spoke at length about the Skagit GI. Tab was very concerned that after all the time spent on the GI to date, we still did not have a “without project” condition report. Tab assured Lorna they would be keeping a close watch on the Skagit GI at the Corps Headquarters and plans to use the Skagit GI as a pilot project to. He introduced Lisa Fleming to Lorna as the new Regional Integration Team (RIT) member.

Also in a presentation by Tab Brown, the Chief of Policy and Planning, USACE, he noted that there was a recent senate report, noting extensive difficulties in the Corps planning process. He noted that there is a general rule that if additional parameters, and goals and objectives are added to a study, they can derail, or make the study ineffective.

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He stated that “any study greater than ten years is not effective and is excessive.” He talked about a New Planner Certification Program instituted by the Corps. He notes however, that only one half of the planners have adequately trained. He said the goal is to have feasibility studies less than 18 months. A comment by Andrea McDonald, President of the Fort Bend County Flood Management Association noted that the Corps needs to make a thorough risk analysis, and decide whether to build a project or not, and that many times government incentives do not work, because the local control is better and more efficient.

Another speaker was Sat Tamaribuchi, of the Irvine Company in Newport Beach, CA. He was a professional engineer who does plans and engineering studies for the Corps and other entities. He encouraged cooperation with all parties in an establishment of goals based on engineering standards. He also noted that “spending so much money on fish is not acceptable.” He said that these result in many meetings and controversy. He also stated that one reason EPA is having controversy and difficulty is that on a scientific basis, their water quality standards are so extreme that they are not attainable. Furthermore, the standards EPA opposes are not affordable.

During the second half of the Tuesday presentation, there was a discussion by Rebecca Stack, a low impact development specialist in the Washington DC Department of Environment. She went through a litany of Green concepts, and noted that Washington DC was very much concentrating on becoming Green. This included government buildings, local agencies, and any private enterprises receiving tax credits. A questioner asked if there was any analysis of the effects of the Green projects. She noted that no there were no results or analyses yet, because the concept was still so new. A number of questions asked about the costs of these projects. She responded that one project involving a private developer costs 6 million dollars. She also noted that in Green projects, the local owners must not only pay for construction, but also maintenance, replanting, and plans to keep the project Green. Another questioner was an attorney who noted that “much of EPA’s science is not good, and some science is woefully lacking.” He represents many developers opposed to EPA demands, and noted that EPA never considers cost-effectiveness. He also noted that there has been push-back by the current administration to not allow the Office of Management and Budget to analyze the budget and the costs of EPA rules. He noted that this is one reason EPA, nationwide is meeting such opposition.

At lunch on Wednesday, Lorna, Chal, Mayor Brunz, John, and Daryl met with Doug Lamont and Lisa Fleming. The discussion centered on the Skagit GI. Lorna explained some of the continuing challenges with the Skagit GI. Doug and Lisa were interested and engaged in the discussion. Doug asked Lisa to meet with him back at the headquarters building later so that he could describe some of the background on the Skagit GI from his perspective.

John also had a cordial meeting with Tom Bean, an engineer with King County Green River Basin Supervisor River and Floodplain Management Section. Tom noted continuing and ongoing problems with Seattle District, and the Colonel and internal workings regarding the Vegetation Policy and removal of trees. He noted the inconsistent guidance received by the Corps, continuing problems with vegetation, although he appeared in some cases to favor vegetation on the levees, but this may have been a function of not having funds or resources to remove the vegetation. He noted continuing financial pressures in King County.

John also had a meeting with Steve Fink, in the USACE Division in Portland regarding the Levee Safety Program. He is the Levee Safety Program Manager. John discussed in detail the PL84-99 repairs problems and the vegetation issues in Skagit County with Mr. Fink. He seemed to be well aware of these problems and he noted that he was part of the regional integration team, and I told him I had discussed this with Lisa Fleming, and he stressed the need for a statewide roundtable meeting regarding problems with ACOE, vegetation, the BiOp and ESA consultation. John told him that he had also discussed this with Adam Lemieux at Rick Larsen’s office and Urali Bar of Patty Murray’s office, and the congressional people are putting together a roundtable conference sometime in September or October. He invited us to contact him with further help in the deferred repairs process, a roundtable meeting, and involvement with the Seattle office. John found later that Steve Fink had also discussed these issues with Steve Stockton, Pete Rabbon, and that he would be attending the Thursday conference regarding the Seattle District and repairs.

Further presentation on day 2, Wednesday included one by Ada Benevides, the Deputy Chief of the South Pacific Division of the Regional Integration Team. She noted that the Corps is stressing collaboration, and partnerships with local entities and stakeholders with a goal of maintaining infrastructure reliability. She and other speakers consistently talked about partnerships with the “Federal Family,” which would include the Corps, EPA, and other entities. Again, it appeared that there is emphasis on cooperation with the “Federal Family,” which has no money, can provide little help in infrastructure, but is interested in regulating the activities of its non-federal partners.

Another speaker was John Anderson, the Minority Counsel for Water Resource and Environmental Subcommittee, who gave a recent update on current laws. He noted that in the 2010 WRDA, there were only three chiefs reports, but many projects. He noted that since the three proposed projects were in democratic districts there was little republican support and that the deadline for the WRDA was the end of the month. He said there will likely be no WRDA approved through the Senate this year. He also noted that the Clean Water Act Restoration Legislation was really a vast expansion of jurisdiction by EPA and water resource agencies, and had resulted in so much push-back and controversy that it will not get passed. He also noted many other federal proposals urging holistic and collaborative policies, but with no money to pay for any of the proposals. He noted that if legislation is passed which has great vision, but no details, and no funds to support it, then it results in just a “Big Hammer” on local entities and projects. He reiterated that people at the local level know what and how to do water resource projects and all they need is the tools.

These tools, from the federal government should not be overregulation but should be 1) resources to assist the local entity; 2) funding; 3) guidance by the federal government to streamline its regulations; 4) actual assistance, and not obstacles; 5) tools to get projects done; and 6) policies directed at actual construction. He noted that there are too many regulations, too much has been done too fast, and this has led to too many problems, and now the money has been spent and there are severe funding problems. He said too often that the federal government policy is to say “here is what you are going to do. If you don’t do it, EPA will step in and do a plan for you, and then tell you how to spend your money.” This is the “Big Hammer” rather than cooperation. He encouraged local entities to stand up to the federal agencies if proposals are too expensive, too much regulation, and ideas are better at the local level. Only be stating the real problems with the regulation and cost, can the federal agencies respond and engage in productive partnerships.

Another speaker, Ken Kirk is the Executive Director, the National Association of Clean Water Agencies. He noted that EPA’s current estimates of providing clean water to the nation and stormwater changes are at 40 billion dollars. However, 70 billion dollars have already been spent by local entities for stormwater, wastewater, and clean water compliance with EPA regulations. He stated that nationwide the expenses imposed by these regulations are the second largest expenses of local entities, besides schools and education. He stated that the local level is where the infrastructure and projects get done, and not at the federal level. He noted under the current system of regulation usually the locals are the last to get the dollars which have trickled down through the various agencies and studies. He noted that under EPA regulation water use rates are going up faster in cost than consumption. He noted that the EPA policy of Green infrastructure is “too rigid, too simplified, doesn’t account for real world outside of Washington DC, too expensive, too unrealistic, and EPA does not have enough staff to handle or respond to its own regulations.” He noted, for example that in regulations regarding Green infrastructure, that EPA requires most projects provide Green infrastructure, in addition to the grey infrastructure. In other words, after complying with regulations to build projects, then Green infrastructure is required to be added to the project, and in one case added 6 million dollars to a private project. He said the stress should be that if the local entity provides Green infrastructure, it should be in lieu of grey infrastructure, or built together while the project is being built. He ended with the common theme that it is “very tough” getting money from the government, because it is broke and much of the money it had is already spent.

Another speaker was Herb Nakasone, who is the Chair of the Levee Security Sector with Orange County. He noted that Orange County partners with the Department of Homeland Security, and concentrates on terrorist threats. He noted that especially in public facilities, there is somewhat of a disconnect between local entities and Department of Homeland Security, due to the many agencies that are involved. He stated for example that if you repair a critical facility such as a power plant, and you saw an abandoned car and you reported it as an abandoned car, the local police

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department would likely would try to find the owner and seek the removal of the car and Homeland Security would not get involved. However, if you reported it to the local police or Homeland Security and used the magic phrase of "suspicious activity" that this would get the attention of Homeland Security, who would investigate as possible terrorist threat.

He also noted to his great surprise, that the federal government along with the states have established "Fusion Center" these are now in every state, including a Central Office, where all state information for law enforcement activities dealing with "suspicious activities" and terrorist threats are reported to a central database. All law enforcement agencies at the municipal, county, and state level report to these fusion centers, who report to the federal government. Every state has at least one office, and California has six offices. He showed a map of the locations of these Fusion Centers. He stated that local infrastructure operators, including dams, electrical plants and levees should keep this in mind when encountering "suspicious activities," or potential threats to the infrastructure. He also noted that some states are entering partnerships with the ACOE and DHS to obtain a levee inventory of the most critical levees in the United States. The most critical are those that involve sensitive installations such as military bases, power plants, oil refineries and other such entities.

Another speaker was Tim Richards, NAFSMA Stormwater Committee Chairman, from Charlotte, North Carolina. He discussed a recent EPA survey questionnaire regarding stormwater. He noted that this is similar to many federal surveys and questionnaires, which often focus in the wrong directions and often are designed to allow the entity to exert more regulation, and leaving out valuable information to the community. He noted that he has attended many meetings with EPA and other agencies, which lack some critical players and decision makers. He noted that many meetings leave out engineers, who would provide the most value. He noted that it is better to do regional roundtable meetings where there is more exposure involved participants in a larger public forum. He noted that agencies such as EPA and FEMA lack good science and the science many times will not support their regulations or valid conclusions. He had also noted some areas where questionnaires had left out information, and then EPA started an investigation for not adequately monitoring stormwater issues. That EPA, in some questionnaires uses the information selectively and picks and chooses their results of the survey which support their purposes and rejects responses with which they do not agree. He noted that one recent survey that he received was 16 pages long and 7 pages dealt with questions and directions for filling out the form and policy issues. He also noted that EPA rules are in constant change and flux all the time and are confusing.

At dinner Wednesday, Lorna, Chal, Mayor Brunz, John, and Daryl met with Lisa Fleming and provided additional background to her regarding the Skagit GI as well as the levee emergency repairs. John discussed with Lisa at length, the deferred repairs problem in Skagit County, along with the new attempt to negotiate a resolution with the Corps. A proposal was made to her, which she agreed to, that she could be contacted as needed with our problems and negotiations if we cannot get a repair by 2010, and she offered to become involved with the policy team of our negotiations, since she was a member of the Vertical Team if this was approved by her superiors. John also discussed this with her superiors, including Steve Stockton, and Ed Hecker, both of whom agreed that her involvement could be beneficial and productive. Lisa indicated she would attend the early meeting Thursday morning with Daryl, Chal, and John regarding the emergency repairs. Lorna continued to provide Lisa with background information about the Skagit GI. John and Chal found Ed Hecker, Chief, Northwestern Division Regional Integration Team (Lisa's direct boss). Ed recognized that the process to make PL84-99 emergency repairs to the Skagit levees was broken. Chal and John reminded Ed they would see him in the morning. John also had another conference with Steve Stockton, who noted a recent trip to Holland, where he inspected levees, and found them to be tall, strong, and completely covered in low lying grasses, and without trees. Apparently the operators of the Holland levees do not think trees are a good idea on levees.

Chal found the FEMA group and joined in the conversation. The group was composed of Doug Bellomo, Director, Risk Analysis Division, Mitigation Directorate, FEMA Headquarters; Roy Wright, Deputy Chief, Deputy Director, Risk Analysis Division; David Maurstad, Vice President, PBS&J and past Director, FEMA Mitigation Directorate; and Mike Buckley, Vice President, Dewberry (Dewberry is currently the Region FEMA X technical consultant. Mike is a previous FEMA

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employee). Chal began the conversation by asking about the recent Federal Register solicitation for an oversight entity to run the new Scientific Resolution Panel process that FEMA is implementing. FEMA has proposed to utilize the National Institute of Building Sciences (NIBS) to administer the Scientific Resolution Panels. The reason for the solicitation was to see if there were any other entities who would be interested in performing this role, as a check to “compete” the contract that will be put in place between FEMA and NIBS

<https://www.fbo.gov/index?s=opportunity&mode=form&id=f1bc842eb681a8937b723683ee2b4d17&tab=core&cvie w=0> . Roy and Doug stated that there were no responses to the request; therefore, FEMA will move forward using NIBS to administer the program. Chal expressed skepticism that the panels would be ready to go on November 1st. Roy indicated the expectation was that there would be a pool of about 30 individuals and/or consultants on board by November 1st, and about 70 on board by March 2011. The idea is that at that point, FEMA would see how much activity would be forthcoming to use the process, and revise/respond the solicitation based on the activity. Chal asked about the specifics of the process, mentioning his question as to whether the scientific review panel would either allow interaction with the affected local government(s) or publish a draft opinion which could be reviewed prior to a final opinion being issued by the panel. The response was: no. Chal noted that the informational handout regarding the scientific panel inferred that an appeal could be forwarded on to the panel before FEMA issued a ruling on the appeal itself. Was a decision on the appeal needed by FEMA prior to an appeal moving on to the Scientific Resolution Panel? Doug and Roy could not readily answer this. But, they stated that they had not decided yet whether FEMA would issue an opinion on the appeal prior to it being submitted to the Scientific Resolution Panel. Instead, their answer was that the local community needed to decide no earlier than 60 days but no later than 120 days into the appeal period, whether to request the Scientific Resolution Panel. Chal asked, how would the local communities know whether or not to move into the FEMA Scientific Resolution Panel process? That is, would the Communities receive some kind of input from FEMA during its review of the appeal that would give an indication of what FEMA agreed with and/or what FEMA might ultimately decide on the appeal? It was not made clear by Doug or Roy, exactly how this would go. Both said that, after the appeal is filed, “consultation” with FEMA will occur between FEMA and the local communities. Doug and Roy did not explain how this interaction would proceed. Chal asked, what was the extent of interaction with FEMA in the first 60 days of the appeal process, presumably during which time the Communities would need to decide whether to request the Scientific Review Panel process? Doug said, FEMA would be communicating with the local communities. He was vague on how much and what the nature of the communication would be. Chal brought up his concern that to utilize the Scientific Review Panel would cost the local communities a lot of money, because a different kind of information package would be necessary to submit – a kind of a literature review that would guide the Scientific Review Panel through the information sources, issues, and sources documents. Doug said no: the only package that would be submitted would be the appeal package. No additional information would be allowed to be submitted to the Scientific Review Panel. And, no “consultation” would occur between the local communities and the Scientific Resolution Panel (Note: Chal forgot to ask: does this also mean that FEMA cannot provide further input to the Scientific Resolution Panel?). Both Doug and Roy emphasized: for the communities to give themselves the best possible shot during both the appeal process and the Scientific Review Panel process, the appeal needed to be submitted in accordance with Federal regulations, including new maps that are based on superior methodology and/or science that demonstrate FEMA’s maps are wrong. The appeal documentation basically needs to show the new base flood elevations and then explain why those new elevations are superior to FEMA’s. Chal thanked both Doug and Roy again for supporting the Skagit technical conference in D.C. in March.

John and Daryl had arranged a meeting at 6:15 Thursday morning with Ed Hecker, Steve Fink, Levee Safety Program Manager, Portland Division, Pete Rabbon, and Lisa Fleming. Judy Soutierre, Flood Risk Program Manager, USACE-Sacramento, also attended. Daryl, John, and Chal also attended. The topic was: emergency levee repair. Ed began the meeting by stating that he was well aware that when the responsibility for making the emergency repairs moved from the Emergency branch to the Civil Works branch in the Seattle District, a fatal flaw was created that has not been addressed. The goal of emergency repair work under PL84-99 is to complete the repairs prior to the next flood season. John asked whether the Seattle District could be reorganized to put the responsibility for the repairs back with the Emergency Management branch, as that branch had successfully helped make the repairs in years past. Ed was not willing to pursue that approach, but did state that from his perspective, all branches should be able to work together to meet the goal of getting the repairs completed prior to the next flood season. John and Daryl mentioned the

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difficulty of getting face to face meetings with the resource agencies, in particular NOAA, and ERS within the Corps and received information about meetings with the resource agencies only secondhand. Ed mentioned that the Northwest Division was working to set up roundtable meetings to get all the Agencies in one room to discuss the mitigation issue. John noted the Washington congressional delegation was already working to set up something like this. John discussed the process the Seattle District had set up so far to help with the levee repair mitigation question. He said the Seattle District had set up two panels – a technical panel and a policy panel – to review the possible mitigation actions, and to continue negotiations with the local dike district, in hopes of obtaining permit approval by the end of the year so work could be done in 2011. He asked if it was possible to get Lisa Fleming, who was an Attorney and also a license engineer, on the Regional Integration Team on the policy panel? Ed appeared resistant to giving the OK for this, although John stated that he had already talked to Lisa, and to Steve Stockton, who felt that this may be productive. Pete Rabbon asked whether utilizing a Corps “advanced measures” process would work in this situation? Steve Fink stated that any methodology would still require environmental mitigation to be decided upon. He asked, was the root of the problem the Office of Counsel at the Seattle District? Lisa mentioned that every administrative level of the Corps has its own attorneys, perhaps other levels could take a look at this? Ed stated that General McMahon of the Northwest Division and Colonel Wright of the Seattle District were well aware of the issue, and it would be good to let them work the issue. Ed’s preference was that the Division (Steve Fink) would take lead on the levee emergency repair issue, supported by Lisa at the headquarters. Lisa asked Steve if he would be available to visit the Skagit system, and Steve said he thought he could schedule a visit the week after Labor Day. It was also noted that roundtable would likely occur in September, and that Steve Fink would be a part of that process. Ed Hecker appeared to be strongly in favor of resolving this matter through the Regional Integration Team or Vertical Team, and involving Steve Fink and the Seattle District. It seemed to be acknowledged that Lisa Fleming could be contacted for assistance, which was not specifically ruled out. In any event, John’s discussions with Lisa indicated that she could be contacted at any time regarding assistance in the problem, and she may be able to travel to the region regarding the problem. Ed stated that what needed to be done was basically agree to a process that would enable the emergency repairs to be completed before the next flood season. Chal noted that part of the problem they had been having, was that not everyone was agreed that the repairs were, in fact, an emergency. Ed did not have an answer for how to proceed if not everyone could agree that the repairs were, in fact, an emergency. John felt that this may be in part due to the fact that although these repairs initially were emergency, they have gone so far through the subsequent years, that, that as one person stated, these repairs are not technical emergency repairs at this point. Chal said he would email Lisa an electronic copy of the Dike District geographic areas of responsibility. Independently John had agreed to provide Lisa with emails regarding the background of the dispute. Ed Hecker also noted that problems in Seattle are consistent with problems in other areas of the nation, because of shifts elsewhere from EMS into civil works. After shifting out of EMS, damage repairs have not been getting done and there has been confusion. Ed noted that this is because when transferred to civil works, repairs are not technically considered PL84-99 repairs. John stated that “our problems are unique,” because we not only have short term problems of getting repairs authorized by this year, but we have the long term process of confusion in this area when ERS analyzes projects which are not done by the actual entity that does repair work. In fact, by shifting this process from emergency management to the entity dealing with environmental resources, the process itself becomes so cumbersome and time consuming, that repairs cannot possibly be done within the one year timeframe. Thus, it is this policy which basically eliminates PL84-99 repairs. Ed Hecker appeared to be determined to use the Vertical Integration Team process to resolve these issues, which appears to be a new nationwide policy decision by the Corps. Also, independently in discussions with Lisa, she agreed to contact the prior EMS personnel in the Corps for updates and background of this dispute.

The flood management committee meeting was held at 7:30 a.m. Thursday, attended by Mayor Brunz, Lorna, and Chal. This NAFSMA committee is chaired by Steve Fitzgerald, Chief Engineer, Harris County Flood Control District, Houston, Texas; co-chaired by Janet Bly, General Manager, Miami Conservancy District, Dayton, Ohio. Over the past year, the Committee has met several times via conference call and has provided written review and feedback to the Administration regarding the new Federal policy guidance, including update of the 1977 floodplain management executive order (11988) <http://www.fema.gov/plan/ehp/ehplaws/eo11988.shtm>, the Principles, Guidelines and Standards for planning federal water resource projects <http://www.federalregister.gov/articles/2009/12/09/E9-29270/draft-principles-and-standards-sections-of-the-economic-and-environmental-principles-and-guidelines>, input to

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the National levee safety committee <http://www.nfrmp.us/ncls/> (several NAFSMA members are on this committee) and other Corps of Engineer and FEMA policies, including the levee vegetation policy and levee failure “tolerable risk” guidelines [http://www.nfrmp.us/TRG2010/docs/9 Feb 2010 Levee Safety TRG Workshop Discussion Paper.pdf](http://www.nfrmp.us/TRG2010/docs/9_Feb_2010_Levee_Safety_TRG_Workshop_Discussion_Paper.pdf). Steve noted that the staff and directors NAFSMA worked with to provide feedback on the developing policies appreciated NAFSMA’s comments because the comments were specific and substantive. NAFSMA ensured its comments included those elements it was in agreement with; for those not in agreement, NAFSMA explained why and suggested modifications. The National Academy of Sciences is reviewing the Principals and Standards, with a report expected in November of this year. At the same time, the federal agencies are reviewing the guidelines (detailed planning guidance) under the direction of the Council on Environmental Quality. There is no timeline for completion of that effort.

Janet mentioned that NAFSMA supports 18 of the 20 recommendations of the Levee Safety Committee. One recommendation of note that is not yet supported by NAFSMA is the recommendation for mandatory purchase of flood insurance for all residences behind levees. NAFSMA membership believed in general that this recommendation needed additional study to work out affordability and other issues related to home ownership and commercial properties. A “listening session” is scheduled for the Northwest November 10th on the levee safety committee recommendations. Several committee members mentioned that in their districts, Corps of Engineer staff are inspecting levees using a new set of criteria that have not yet been published (note: later in the day, Eric Halpen, Vice Chair of the National Committee on Levee Safety, US Army Corps of Engineers, said the new criteria would be published by the Corps within the next month. He recognized there was a problem with the delay. Andre McDonald, President, Fort Bend County LID #2, Sugar Land, Texas, noted that from his perspective, more and better training is needed for Corps of Engineers staff in the art of levee inspection, especially in light of the new levee vegetation variance policy expected to be out soon. Steve noted that NAFSMA agencies considered themselves partners with the federal agencies, not stakeholders. Partners bring an ability to do technical work and fully participate in planning processes; stakeholders provide input to the process. Steve set a goal of developing a “Local Sponsor Primer” to help local agencies work with the Corps on studies. Lorna volunteered to help with this effort.

The first morning session on Thursday included a presentation from Hon. Jo Ellen Darcy, Assistant Secretary of the Army (Civil Works). She said that NAFSMA was in the forefront of partnerships with the USACE. She said that the Administration is working to move water resource policy in a direction of more integrated water resource management. She noted that the update of the Principles and Guidelines will ensure flood projects begin to move away from the highest benefit/cost (National Economic Development, or NED) plan, include full consideration of non-structural measures, use of the sound science, and will be applied to all federal water resource agencies, not just the Corps of Engineers. Her office directed each Corps Division and District assign a senior person to the job of Flood Risk Manager (note: for our division, this person is Steve Fink. We are not sure who this person is at the Seattle District). She also mentioned that the Corps staff is aging and she is interested in recruiting younger, enthusiastic new staff members. She was pessimistic about the prospects for a Water Resources Development Act (WRDA) 2010. The last WRDA was in 2007. Steve Fitzgerald asked Secretary Darcy whether evaluation of environmental measures would further slow Corps studies (there is no accepted set of standards yet for evaluating the monetary value of environmental measures). Secretary Darcy stated that she believed new methods of evaluation would enable this to happen without too much additional delay. She stated that going forward, projects with a cost/benefit ratio of less than 2.5:1 can be selected for funding if these projects contain positive environmental benefits. She stated that under the new P&G, projects will be selected on best “net” benefits. During the question and answer period, Lorna asked the Secretary why the Skagit GI project, which is 14 years old, can’t get into the President’s budget, given that it has tremendous potential for integrated environmental measures. Secretary Darcy indicated that perhaps her office’s additional emphasis on a watershed-wide perspective would help get the Skagit GI into the President’s budget. There is a question on whether a study can be in the Corps budget in more than one business line.

Secretary Darcy also noted that there is modernization needed in the planning process. She also noted the goal of collaboration with all federal agencies and groups, and that she would stress environmental-friendly activities, and going green/cost effective goals. She stated the Corps would also be looking at the risk of climate change. She also

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noted that the Corps cannot fully accomplish all flood protection, and that the approach should be for flood risk management, along with shorter planning processes. She discussed new policies regarding climate change and climate variations, which included reducing our carbon footprint, and she intended to reduce by 23% by the year 2020 Corps vehicle greenhouse gas emissions. She also cited environmental-friendly hydropower and lessening our dependence on foreign oil. She also announced missions which have previously been overlooked, including the new Corps project of "connect America outdoors." This is in competition with the Federal Park Service and there was some frustration that the Federal Park Service last developed more outdoor recreation facilities than the ACOE, but that the agency would work on that. Also another mission is reaching out to America's youth, to encourage youth to become involved with and work in the Army Corps of Engineers. She also noted that adding non-monetary evaluations should be done in the planning process. Steve Fitzgerald of NAFSMA asked whether this will make the process longer. The Secretary responded that she hoped there would be ways to streamline the process in the new P&Gs. She also noted that the WRDA process has slowed considerably and there is a large backlog of projects in Congress and that there has further been eight aquatic systems of national significance identified by the President which must be addressed.

Ed Hecker, Director of Contingency Operations & Homeland Security, Headquarters, US Army Corps of Engineers (and also Chief, Northwestern Division Regional Integration Team) was up next. He stated the Corps is looking at using the PL84-99 program to tie together levee safety and Corps assistance, emphasizing non-structural measures. Long term, sustainable flood risk management is the focus of the Corps. Joy Kenisten from the City of Seattle pointed out to Ed that FEMA's current guidance requires natural disaster repairs to put the project back in place exactly as it was. This approach does not enable flexibility to take advantage of a situation that requires a rebuild anyway, to rebuild structures in a way to incorporate environmental improvements that otherwise are consistent with emerging policy.

Ed Hecker also noted that we need collaboration with the "Federal Family" that we need a "systems approach" for operation which is based on reality. He also stressed the informal regional team process for resolving problems including the Regional Flood Risk Management Teams. In addition, he stressed that we need a roundtable process or framework agreement as in Sacramento, rather than "shooting out of the trenches at each other." He noted that the Corps is relooking the PL84-99 process and focusing on recovery from flood damage with more dependence on Contingency Event Process, including "flood fighting" he noted that local entities need to "help the Corps, to enable us to help you." He also stressed the importance of doing eco-system improvements in the context of ACOE work. Hecker also noted that new FIFMTF program involving 13 federal agencies and issues regarding vegetation, construction on flood plains and compliance with ESA. He noted that the key to resolving these issues would be in the roundtable process. We must first look to conservation and watershed improvement as a goal, and then roundtable the approach to resolve with the federal services. It was noted that the Corps will now consider doing watershed studies in the context of projects. Steve Fitzgerald asked that if the Corps does watershed studies for a project, why can't the Corps do an overall watershed study for all jurisdictions, and not just for a local sponsor? The response was this has been discussed, but due to lack of funding the Corps cannot implement at this time. There is no discussion whether this lack of funding would prevent even single watershed studies.

In the flood risk management portions of the conference there was a continual reference to the Silver Jackets Programs <http://www.nfrmp.us/state/state.cfm> . This is an attempt to bring in Federal, State, and Local resources together in order to unify flood risk management. Steve Stockton along with a number of other speakers referred to the Silver Jacket Program on numerous occasions. The State of Washington is in process of putting together this program.

Joy Kenisten-Longrie, Director, Environmental Permit Interagency Office, spoke next. She stated 2007 WRDA section 214 language that enables local agencies to fund environmental permitting positions within the Resource Agencies to help process permits. She said that the most recent sea level rise scenarios called for a 1' to 7.5' rise by 2050, and a 3' to 22' rise by 2100. Chal questioned the 22-foot number. Joy said she would provide the source of this information when she got back to Seattle. Seattle has many significant challenges coming up over the next 20 years, including replacement of the sea wall, and a large upgrade of its combined sewer overflow system so that there will be no more than one overflow event per year.

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The afternoon session was dedicated to the National Levee Safety program. The 1968 National Flood Insurance Program (NFIP) is now seen by many experts as having caused a fragile and non-resilient system of levees throughout the country. The problem was the 100-year standard, which, when combined with the 1986 requirement for all local entities to pay a 35% federal cost share for levee construction, resulted in less-than-100-year protection in many communities who ultimately could barely afford the protection that was constructed. Expect Federal investment within floodplain areas to be scrutinized much more in the coming years. Regarding levee certification, expect the term to be changed to “compliance determination.” In addition, FEMA expects to set up a peer review system to provide a final opinion of the “compliance determination” provided by the consultants of the local agency. FEMA is aware that it needs to do much more work with regard to risk-based premiums for flood insurance. On this topic, FEMA is developing a National Levee Database system that will be on line within the next few months. FEMA estimates there are 100,000 miles of levees in the U.S., of which 14,500 are in some kind of Corps program, such as PL84-99 repair eligible (note: Dike 12 levees are in the PL84-99 program, as are Dikes 1, 3, 17, and 22). But most levee systems the Corps has no authority to get involved in.

Steve Fitzgerald, NAFSMA Flood Management Chair, gave a report on NAFSMA efforts to review the Corps planning process. Steve noted candidly a number of problems with the Corps planning process. Under planning, he noted that there are too many steps in the process, and too many multi-level and after the fact changes to the planning process. This renders the plan, along with the time period, too confusing and difficult. In terms of the Principles & Guidelines, often times these are too complicated, and frequently they do not reflect reality, or “how it’s done”. Also the P&Gs in terms of volume are overwhelming and many changes are implemented without grandfathering prior factors or allowing testimony regarding problems. In terms of people, the local sponsors often don’t understand the process complexity. In addition, district staff sometimes lacks expertise and also lacks motivation. There is open communication not occurring between agencies, local sponsors and the Corps and parties are left out of communications. Regarding funding: the costs of the process is too high, and there is little federal funding and delayed local funding because of uncertainties in the process.

Also a major problem is politicized funding, which is funding from interest groups which creates inefficiency and lengthens the studies. In terms of consequences, there is excessive time, costs and frustration. The longer the time the more the regulations change. Districts and divisions are unsure what USACE HQ will accept or interpret. The major problem with the studies is that there is an inward focus on studies which stops the outward look in order to get projects done. In reference to objectives, all parties need to understand the process. There needs to be a systematic approach and studies need to be finished in less than four years, because a three year study is usually the maximum attention that a project receives. If all of this fails, then there would be the option of not using the Corps at all, and to go elsewhere or to keep projects local. The more review steps and the longer the delays, the more the quality is lowered. Also the more it lowers bureaucracy, the more the quality is lowered. The conclusion is that there are too many studies and this uses up limited resources and time, which prevents and delays projects.

At 7:00 a.m Friday morning prior to the main agenda, a group of about 20 participants, including John, Daryl, Lorna, and Chal met with Steve Fitzgerald to discuss a draft document recommending changes to the Corps planning process. This subcommittee will continue working on recommendations during the coming year.

Friday morning’s agenda was dedicated to a “listening” session for the Federal Interagency Floodplain Management Task Force. This process is co-chaired by Secretaries Fugate (FEMA Chief) and Darcy, and has the support of the Council on Environmental Quality (CEQ – essentially, the Administration’s policy arm for environmental policy). More information on this process can be found at [http://www.nfrmp.us/frmpw/docs/Workshop Presentations/Federal Interagency Floodplain Management Task Force - Hecker & Knight.pdf](http://www.nfrmp.us/frmpw/docs/Workshop%20Presentations/Federal%20Interagency%20Floodplain%20Management%20Task%20Force%20-%20Hecker%20&%20Knight.pdf).

The Friday session discussed the benefits of ecosystem restoration, along with the consistent discussion regarding process and planning frustrations, and limited funding. There is more time and money spent on planning than on construction and the process must be streamlined. Some areas where there is repetitive damages, a reconisense may not justify flood damage repairs, but there would be possibility of doing an eco-restoration project, which would help for flood control. Too often, there is funding for ecosystem and environmental studies which do not address flooding. This only gives false hopes to communities who think they are getting flood control when the projects emphasize environmental considerations. Environmental or other entity pressures are strong enough, then a project can be approved which has no value for flood control whatsoever. Local governments are more stable and consistent than the federal government and so there should be local control. Studies have become too long, too cumbersome, costly, and by the end of the study many don't have the proper cost/benefit ratio. One commentator noted that this results in a project where the "juice is not worth the squeeze."

John responded to a request for comments about the proposal for the FIFMTF. It was noted that this was a task force involving 13 entities, including FEMA, USACE, Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Homeland Security, HUD, Department of Transportation, TDA, EPA, and CEQ, and which would also look at the impact of climate change and human behavior on floodplain management. John replied that on this list there was not a single state or local entity, but these were all federal entities designed for a unified national program for floodplain management. He stated that floodplain management at the local level occurs through permits and land use decisions which are uniquely local, and these are addressed by many rules and regulations at the local level including municipalities, the county, and the state. The only federal interest in these issues would be with FEMA and USACE, but the other federal interests would not appear to have a sufficient connection with the local entities to be involved. For example TVA, or Tennessee Value Authority would have little in common with Skagit County. The fact that all land use planning and flood plain management are local, with the exception of FEMA and USACE, there would seem to be no reason for a new federal task force to oversee what is happening at the local level.

After these points, it appeared that many further comments stressed the need for local involvement, without federal oversight. This is in particular since the federal government is broke, has no money, cannot provide for infrastructure, so why should they try for an expansion of federal regulation when they don't have an interest locally, and when they don't have the money to do the job anyway. Many subsequent speakers noted that the locals need to be in charge and take the lead, because the locals have the trust of the local people. That the studies created problems because there is no accountability and frequently the studies have no dates for compliance other than we need to wait for funding, and the budgeting is not there so it becomes a useless study. One commentator noted that "the Corps is overwhelmed by studies and process." It was also noted that FEMA may be in the right direction because it is outsourcing some of its work it is using LOMRS to lessen the workload, and they train their personnel.

Another commentator noted that it is absolutely silliness to spend 8 million dollars on a study to find at the end of ten years that you have no benefit and so you don't have a project. Another commentator noted that the Corps should be worried about what happens if they find that locals can do projects without them. There was a discussion about FEMA being easier to work with in doing projects. Why can't local entities work with FEMA which has better management, quicker process, and actually has construction approved, and does have some funds. Another commentator noted that a good process may be to obtain money from the Corps and then go to FEMA to try to get a project done. The FEMA flow of money to states is better than the flow from the Corps quicker. Also the problem with Corps money is that it flows based on political reasons, goes into studies, is diverted at all levels of the process, and only a fraction of the dollars trickle down to the local level. Also FEMA mitigation money can be used to repair and be proactive on levees and in a quicker process than Corps money. Another commentator noted that the focus seems to be not enough on the value of human life but on those projects which can be adequately valued through a cost/benefit ratio. Another person questioned what really is the role, if any, of the federal government and we need to ask that question first before we have a task force of 13 federal agencies. Again flood plain management is at the local level and the federal government can only solve a small part of our local problems. Another commentator noted the criticism that this new task force appears to be all "Federal Family member" and no state or local entities. The Corps is already

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involved in flood risk management, and flood plain management, and FEMA is involved in floodplain management. Additional of federal entities provide another unnecessary layer of federal regulation. If one agency now has internal problems, inconsistencies and bureaucratic delays, think what 13 nationwide federal agencies will cause.

Andre MacDonald from a Texas flood agency noted that the problem is not of control but having to address issues of "fins, feathers, and fur" which should be related to the Department of Mammals, but we do not have one. He stated that the real problem is there are so many groups that have the position of "I don't care about flood control, I only care about animals and fish." They forget that you can do both, flood control and fish protection. But there must be discussion and cooperation. Also that government agencies should be required to document or demonstrate that a "Green" project or proposal will actually work, will be accountable, and will demonstrate an acceptable cost/benefit analysis. At the end of the program, the federal agencies somewhat modify their position and stated that this new task force will allow the government to talk out their issues, confusion and conflicting policies, which are the major problems for the states and locals getting things done.

Another problem noted was that where the OMB requires analysis of costs for each agency action, it does not give credit for environmental benefits and if the project does not have an acceptable B/C ratio, the projects will not be approved. Environmental regulations, therefore, if too costly and presenting to many environmental burdens, will assure that projects cannot be approved. At the end of the conference, the presenters noted that the biggest "take away" was that there must be federal cooperation with the locals and state entities for any successful projects and management.

About 180 people attended the conference, with a significant number of those being federal executive branch top leadership. The number of federal agency leadership officials in attendance speaks to NAFSMA's influence and effectiveness at the federal policy level.

Summary of activity related to our goals:

- 1) Attend the workshops and issue sessions to get the latest information. (Completed)
- 2) Meet with and introduce ourselves (or re-introduce ourselves) to key federal government executives attending the conference. (Updated Tab Brown, Doug Lamont, Ed Hecker. Met Lisa Fleming. Met Steve Fink. Spoke with Doug Bellomo and Roy Wright. Met with many NAFSMA members.)
- 3) Meet informally with federal officials we had met with previously at last year's October 2009 NAFSMA conference and in Washington D.C. in March 2010 to update those officials on the issues related to the Skagit River. Those issues are:
 - a. Skagit General Investigation study: keeping the study on schedule; correcting flawed work. (Lorna met with Tab Brown. Group met with Doug Lamont and Lisa Fleming. Lorna met at length with Lisa Fleming and scheduled a visit to the Skagit in late September.)
 - b. Levee vegetation issue: ensure new levee vegetation policy will require concurrence from local dike districts prior to vegetation being installed on levees. (John and Daryl met with Steve Stockton.)
 - c. Levee emergency repair issue: try to make progress on getting the long-delayed 2006 flood PL84-99 repairs completed. (Daryl, John, and Chal met with Ed Hecker, Lisa Fleming, Steve Fink, Pete Rabbon, and Judy Soutierre.)
 - d. FEMA flood map appeal process and Scientific Resolution Panel process: find out more about FEMA's expectations. Ask for a face-to-face provision in the Scientific Resolution Panel process. Discuss the potential to meet again with FEMA's hydraulic modeler. Discuss impact of the NFIP Biological Opinion. (Chal met with Doug Bellomo and Roy Wright, got input on FEMA expectations for the appeal and for the Scientific Review Panel. Chal did not request further hydraulic modeling review and did not bring up the Biological Opinion.)
- 4) To the extent reasonably possible, set up meetings with those federal officials who might be able to help with our local issues; provide background on our local issues to these officials and request followup actions to move Skagit issues toward resolution. (See above.)

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Followup actions:

- 1) Chal will draft the trip report and have it reviewed by Skagit conference participants.
- 2) Chal will compile and distribute the final trip report.
- 3) Chal will provide information to various federal officials as requested.
- 4) Lorna will provide Lisa with a copy of the Dike District geographical boundaries map and copy of 2004 Skagit GI PMP for reference.
- 5) Lorna will organize site visit to the Skagit with Seattle District and Lisa (RIT) on September 29th.
- 6) Lorna will follow-up with Tab Brown and Steve Fitzgerald on Corps Planning process training opportunities for Local Sponsors
- 7) John will contact Steve Fink to determine his coming to Skagit County and doing a river/damage assessment tour and contact Lisa Fleming regarding the same, and further trips to Skagit and Washington state.
- 8) John will forward emails regarding background of PL84-99 dispute, along with Vegetation PowerPoint presentation from March 2010 DC meeting, to Lisa Fleming.
- 9) John will contact Adam LeMieux for Rick Larsen's office, and Urali Bar of Senator Murray's office regarding the roundtable summit scheduling.
- 10) Daryl will coordinate with Steve Fink and Lisa Fleming for a tour of the levee repair sites for all of the Dike Districts.

Cost to attend the conference for Mayor Brunz and Chal: conference fee \$1,700. Airplane and hotel: \$2688.96. Transfer to/from hotel: \$88. Luggage: \$60. Per Diem: \$228. Total \$4,764.96. This conference was budgeted for and will be paid from line items 425 000 000 531 50 43 00, Drainage Utility Travel, approximately \$2,700; 001 000 110 532 20 43 00, Engineer Travel, approximately \$1,515; and 001 000 030 513 10 43 00, Exec Travel, approximately \$550.

Respectfully submitted,



Chal A. Martin, P.E.
Public Works Director / City Engineer

C: Dike District 12
Dike District 1
City of Mount Vernon
Skagit County

Atch: 1. Conference Agenda
2. NAFSMA position papers



2010
nafsma
Annual Meeting

San Diego, CA • August 23-27, 2010

Agenda

Monday, August 23, 2010

7:30 am **Registration Opens**
Group Registration Area

8:45 am **Stormwater Initiatives, Challenges and Successes Workshop**
Seabreeze Room Cosponsored by the California Stormwater Quality Association (CASQA) and the Urban Watersheds Research Institute (UWRI)

4:30 pm **NAFSMA Board of Directors Meeting**
Hanover Room

Tuesday, August 24, 2010

7:00 am **Registration Opens**
Group Registration Area

~~Have Workshop Work Session 7:00-8:30~~
moved to Thursday

7:30 am **Stormwater Committee Meeting**
Crystal/Continental

8:30 am **Opening General Session**
Ballroom

Welcome

Gale William Fraser, II, PE, NAFSMA President and General Manager/Chief Engineer Clark County Regional Flood Control District

Federal Agency Perspectives on Emerging Stormwater and Flood Risk Management Issues

Moderator: **Gale William Fraser, II**

Steve Stockton, Director of Civil Works, U.S. Army Corps of Engineers

Hon. Peter Silva, Assistant Administrator for Water, U.S. Environmental Protection Agency

Hon. Sandra Knight, Deputy Federal Insurance and Mitigation Administrator, Mitigation

Margaret Davidson, Director, National Oceanic and Atmospheric Administration, Coastal Services Center

10:30 am **Break**

11:00 am **Dialogue with Federal Officials**

Moderator: **Jim Fielder**, NAFSMA Vice President, Chief Operating Officer- Water Utility Enterprise, Santa Clara Valley Water District



NAFSMA 2010 Annual Meeting

August 22-24, 2010
Hotel Del Coronado, San Diego, CA

Noon

Windsor Lawn

1:30 pm

Ballroom

2:45 pm

3:00 pm

3:30 pm

4:30 pm

Luncheon

General Session

Moderator: **Tim Richards**, NAFSMA Stormwater Committee Chair, Deputy City Engineer, City of Charlotte

Current Legal Issues in Stormwater Quality and Flood Risk Management

David Burchmore, Partner, Squire, Sanders & Dempsey L.L.P.

Jeffrey Longworth, Partner, Barnes & Thornburg, L.L.P.

How to encourage multi-functional landscapes in the urban environment

Rebecca Stack, Low Impact Development (LID) Specialist, Watershed Protection Division, District Department of the Environment (DDOE)

Oliver Boehm, Landscape Architecture Studio Manager, Michael Baker Jr., Inc.

Break

General Session

Moderator: **Jim Fiedler**, NAFSMA Vice President

Update on the Corps of Engineers Planning Process

Theodore Brown, Chief of Policy and Planning, USACE

Discussion of Potential Incentives for Sound Water Quality, Flood Water and Floodplain Management

Facilitator: **Linda Manning**, President, The Council Oak

Michael J. Fox, Vice Chairman, Board of Supervisors, Montgomery Township, PA

André D. McDonald, President of Fort Bend County LID #2 and Fort Bend Flood Management Association

Rebecca Stack, DDOE

Sat Tamaribuchi, Irvine Company, Newport Beach, CA

Evening on Your Own



NAFSMA 2010 Annual Meeting

August 23-25, 2010
Hotel Del Coronado, San Diego, CA

Wednesday, August 25, 2010

7:00 am	Registration Opens
7:30 am <i>Crystal/Continental</i>	Floodplain Management Committee Meeting
9:00 am <i>Ballroom</i>	General Session Update on Current Legislative Issues Moderator: Dusty Williams , NAFSMA Secretary and General Manager, Riverside County flood Control and Water Conservation District John Anderson , Minority Staff Director, House Subcommittee on Water Resources & Environment
9:30 am	Clean Water & Stormwater Affordability Issues - "Money Matters" Ken Kirk , Executive Director, National Association of Clean Water Agencies
10:00 am	Break Current Regulatory Issues Update: Moderator: Dusty Williams
10:30 am	Current Regulatory Issues Update Levee Security Issues Enrique E. Matheu , PhD, Chief, Dams Sector Branch, Office of Infrastructure Protection, US Department of Homeland Security Herbert Nakasone , Chair, Levee Security Sector Update on Provisional Accredited Levees and other FEMA Levee Compliance Issues Doug Bellomo , Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, FEMA NAFSMA Comments on Stormwater ICR and Future of the Stormwater Program Tim Richards , NAFSMA Stormwater Committee Chairman
Noon <i>Crown Room</i>	Luncheon Keynote Increasing Public Preparedness for Floods: research findings and evidence-based recommendations for practice Dennis S. Miletic , Ph.D., Professor Emeritus at the University of Colorado at Boulder
2:00 pm <i>Ballroom</i>	FEMA Risk MAP Workshop Moderator: Dave Mallory , Urban Drainage and Flood Control District FEMA Risk Map Update Roy Wright , Deputy Director, Risk Analysis, FEMA's Mitigation Directorate Doug Bellomo , Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, FEMA FloodSmart Risk Communications & Tools for Communities Mary Margaret Connell , JWT Association of State Floodplain Managers Foundation Floodplain Management Game Demonstration Doug Plasencia , ASFPM Foundation Trustee, Vice President, Western Water, Michael Baker, Jr., Inc.
4:30 pm	Adjourn
6:00 pm <i>Hotel Del Coronado Beach</i>	NAFSMA Beach Party All are invited to join us for a fun-filled evening on the lovely beachfront at the Hotel Del Coronado (Includes dinner)



NAFSMA 2010 Annual Meeting

Hotel Del Coronado, San Diego, CA

*6:15 mtg w/ Dave Liberman
Lisa Fleming & others*

Thursday, August 26, 2010

7:00 am	Registration Opens
7:30 am <i>Crystal Continental</i>	Flood Management Committee Meeting
8:30 am <i>Ballroom</i>	<p>General Session</p> <p>U.S. Army Corps of Engineers Flood Risk Management Initiatives Moderator: Steve Fitzgerald, Chief Engineer, Harris County Flood Control District and NAFSMA Flood Risk Management Committee Co-Chair</p> <p>The ASA's Perspective Hon. Jo-Ellen Darcy, Assistant Secretary of the Army (Civil Works)</p> <p>Headquarters Update on Flood Risk Management Edward Hecker, Chief, Homeland Security Office and Provost Marshal, Northwestern Division Regional Integration Team, USACE</p>
9:30 am	Break
10:00 am	<p>Environmental Permitting - Getting the Work Done: Seattle's Successes, Struggles & Emerging Issues Joy Keniston-Longrie, Seattle Public Utilities</p> <p>Corps Collaborative Planning Efforts Report Ada Benavides, Deputy Chief, SPD-RIT, USACE</p> <p>NAFSMA Efforts to Review the Corps Planning Process Steve Fitzgerald, NAFSMA Flood Management Chair</p>
Noon <i>Crown Room</i>	<p>Luncheon</p> <p>NAFSMA Membership Meeting and 2010 Awards</p>
2:00 pm <i>Ballroom</i>	<p>General Session - Levee Safety Workshop Moderator: Dusty Williams, General Manager and Chief Engineer, Riverside County Flood Control and Water Conservation District</p> <p>National Committee on Levee Safety (NCLS) Update Eric Halpin, P.E., NCLS Vice Chair, U.S. Army Corps of Engineers, and NCLS Members</p>
2:45 pm	National Levee Database, Inspections and Levee Screening Tool
3:15 pm	Break
3:45 pm	Dialogue with Speakers
4:30 pm	Evening on your own <i>Levee workgroup work session 4:30 - 6:00</i>

Friday, August 27, 2010

7:00 Corps Planning Process Workgroup

8:00 am <i>Coronet Room</i>	<p>Interagency Task Force on Floodplain Management Listening Session All attendees are invited to participate</p>
Noon	Annual Meeting Adjourns



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NAFSMA Position On Municipal Stormwater Management Issues

(Modified and Approved April 2008)

I. Introduction

NAFSMA represents local agencies dedicated to the improvement of stormwater quality through the implementation of technically feasible and fiscally responsible stormwater management programs.

NAFSMA supports the Clean Water Act and the use of tools such as the NPDES Permit Program, TMDLs and adaptive management to help local jurisdictions determine the appropriate level of participation in cleaning the nation's waters. We agree that clean streams should be protected and impaired streams cleaned; however, in order to facilitate the work, it is important that the rules and guidelines are clear and feasible.

Section 402(p) (3) of the Federal Clean Water Act clearly intends to establish the standard of compliance for municipal stormwater discharges as the “. . . reduction of stormwater pollutants to the maximum extent practicable . . .”. However, this reasonable standard of compliance is often superseded in NPDES and individual State permits. This then results in local governments being required to implement unreasonable measures to achieve impractical numeric water quality criteria and/or permit limitations, runoff volume controls, and Total Maximum Daily Loads (TMDLs). These permit requirements are pushing stormwater programs throughout the country beyond the technically achievable and fiscally responsible compliance standards set forth in the Clean Water Act and in many cases with no commensurate water quality benefit.

Many municipalities throughout the country, at their own expense and without Federal funding, are making significant improvements in managing stormwater quality and have been largely successful in awakening their residents, businesses and leaders to the importance of reducing this previously unidentified source of pollution. Over time, these efforts will improve water quality of the nation's waters. However, increasingly complex and impractical permits, constant threat of litigation and audits and enforcement activities are serving to impede local government's efforts and often lead to the implementation of costly and unproven stormwater treatment systems at the expense of real progress. These reactive measures appear to be undertaken just to show that something is being done and despite the fact that the science is usually insufficient to demonstrate a commensurate environmental benefit for the systems and practices being implemented.

NAFSMA desires and is fully prepared to work with Congress and the U.S. Environmental Protection Agency to define a regulatory framework for municipal stormwater programs that will assure the improvement of stormwater quality and the protection of our nation's waters.

NAFSMA believes that first and foremost, it must be recognized that point and non-point sources of pollution cannot be regulated the same way. It is impracticable and sometimes impossible for local jurisdictions to significantly reduce many non-point sources on their own. It often requires State and Federal rules to make this happen. For example, many pollutants are naturally deposited via air and wildlife. The point vs. non-point issue is the first of five issues that we believe will require an amendment to the Clean Water Act.

In addition, we recommend four additional areas of concern be addressed.

- Point vs. Non-Point *
- Clarification of the term “Maximum Extent Practicable”*
- Total Maximum Daily Loads (TMDLs)*
- Industrial Facilities*
- Construction Activities Management*
- Permit Simplification
- Phase II Municipalities
- EPA/State Funding, Research and Technical Assistance
- Rate and Volume of Flow
- Monitoring

*requires amendment to the Clean Water Act

II. Stormwater Committee Mission Statement

The Stormwater Committee identifies and addresses stormwater quality and quantity issues affecting local governments including tracking, evaluating and making recommendations regarding federal legislation and regulations. The committee coordinates with other associations such as the National League of Cities, National Association of Counties, U.S. Conference of Mayors, National Governors' Association and American Public Works Association regarding stormwater quality and quantity management issues.

III. General Statement

NAFSMA strongly encourages the recognition of regional diversity and local responsibility in the development of new, and implementation of existing, policies and programs; and to include local, regional, and state entities in the development of policies, programs, regulations, and guidance.

NAFSMA understands the need for national policies and programs. However, NAFSMA also encourages recognition of the regional diversity in the United States, the difficulty of a “one size fits all” approach, and that local and regional entities have a role and responsibility in local land use decision making.

IV. Point vs. Non-Point

To alleviate some of the unworkable linkages to the NPDES program, consideration should be give to a Clean Water Act amendment that moves the municipal stormwater program from the NPDES program (Section 402 Of the CWA) to a new, non-point source municipal stormwater program.

Prior to the 1987 CWA amendments, stormwater (despite its non-point source nature) was subject to the same regulations and standards of compliance as point source discharges, such as public sewage treatment plants and industrial wastewaters. These standards proved unreasonable and unworkable and, as part of the 1987 CWA amendments, Congress left the stormwater program in the NPDES program of the CWA, but created the MEP standard of compliance for municipal stormwater discharges.

It is NAFSMA’s view that the MEP standard was developed to provide a reasonable standard of compliance which was clearly intended to replace the standards that were in place prior to the amendments. However, be-cause the stormwater program remained in the NPDES program, there is a great deal of debate about the linkages to the NPDES requirements for true point source discharges.

This has resulted in several lawsuits and is pushing local government agencies into costly, unreasonable programs that negate the intent of the 1987 amendments. An amendment to the CWA that moves the municipal stormwater out of the NPDES program and into a stand alone non-point source program would put the MEP standard of compliance into the appropriate context.

NAFSMA believes that many significant improvements to stormwater quality can be achieved by cooperative efforts at all levels of government and business. However, Municipal Separate Storm Sewer System (MS4) permits should not become an aggregation of such unachievable requirements such as eliminating pollutants that emanate from legal, often times federally approved, use of common products.

NAFSMA does not support stormwater treatment plants, but if for some reason such requirements are mandated, then the Federal Government must provide funding for those efforts similar to Waste Water Treatment plants in the 1980's and 1990's.

V. Maximum Extent Practicable

Amend the Clean Water Act to recognize the “Maximum Extent Practicable” (MEP) standard as the required standard of compliance for municipal stormwater discharges; and, define MEP as a technically sound and financially responsible program that is not based on numeric criteria, but which is based on the implementation of effective best management practices (BMPs).

The 1987 Clean Water Act amendments established MEP as the standard for municipal stormwater discharges. As documented in the Congressional record, this new standard was included because Congress recognized that traditional end-of-pipe numeric standards that applied to wastewater treatment plants and industrial process wastewaters were not practical for municipal separate storm systems that collect urban runoff and stormwater runoff from diffuse, non-point sources. The MEP standard, which prescribes the use of best management practices that are technically and financially achievable, results in the practical implementation of municipal storm-water programs that will improve the quality of stormwater discharges.

The MEP standard, as confirmed by EPA in the 1999 Phase II rules, and also upheld by the 9th Circuit Court of Appeals, is being routinely superseded in NPDES permits nationwide by impractical standards of compliance, notably numeric effluent limits and receiving water limitations.¹ While the Court of Appeals acknowledged that EPA had the authority to use standards other than MEP, such as numeric permit limitations it did not rule the EPA was mandated to do so and did not rule the EPA's discretion could be applied without regard to practicality. In many cases, permits are being issued that require local governments comply with standards for pollutants that do not provide evidence of meeting beneficial water quality objectives and/or are beyond the authority of local governments to control.² This approach leads to little improvement to water quality and serves to de-energize real, global solutions to ubiquitous water quality problems caused by legal, everyday sources such as pesticides and brake pad wear.

NAFSMA represented agencies concur that aggressive stormwater management programs with a wide array of BMPs and strategic plans to reduce and prevent discharge of key pollutants are needed. In fact, we believe that the MEP standard should change over time as BMPs and strategies evolve, resulting in incremental improvement to the runoff that is discharged from urban areas. Using adaptive management principles, significant improvements will take time and will involve fundamental changes in personal behaviors, business practices and public perceptions, similar to the experiences of solid waste recycling programs. Issuing NPDES permits that require unrealistic compliance with numeric limitations will only serve to subject cities and counties to lawsuits and costly, unproven treatment systems that are not likely to

achieve compliance and will not significantly improve the quality of our nation's waters, while placing major fiscal burdens on local governments and the citizens they serve.

VI. Total Maximum Daily Loads (TMDL)

Amend the Clean Water Act or direct EPA to develop regulatory guidelines that clearly prescribe a BMP based approach that is consistent with the MEP mandate for compliance with TMDL waste load allocations for municipal stormwater discharges.

Specifically, Congress should direct EPA to develop a strategic plan for implementing TMDLs consistent with the recommendations of the National Academy of Sciences by:

- **Encouraging and accepting use attainability analyses (UAA), using the existing flexibility within the Clean Water Act, which focus on the needs of the drainage basin, identifying real beneficial uses, recognizing community values, and finding practical, positive actions by using existing knowledge and data. NAFSMA recommends that Congress require that a UAA become the first step of a TMDL process if a water body-specific UAA has not been done. Where significant new costs are incurred in expediting UAAs, federal funds should be made available for these analyses.**
- **Developing an adaptive management process, recognizing that not enough is known to make all decisions for all time in how to deal with all pollutants and, therefore to adjust water quality programs over time as new knowledge is gained. The TMDL implementation process should begin with practical actions to achieve beneficial uses valued by the community and should proceed with modifications to those actions as the results of earlier efforts are evaluated.**
- **Coordinating TMDL implementation with BMP based efforts of municipal stormwater Phase I & II NPDES permits to maximize effectiveness by avoiding duplication, conflicts and unnecessary reporting. Specifically, NAFSMA members recommend that Congress clarify or amend (if necessary) the Clean Water Act to reiterate the definition of MEP as the technically sound and financially responsible, non-numeric criteria, applicable to all municipal stormwater discharges through the implementation of best management practices (BMPs).**
- **Listing of streams: The pollutant samples need to go through quality control procedures and only the pollutants of concern with historic, physical and sound scientific evidence should be considered. (In other words, grab samples with a limited number of frequencies should not qualify as evidence for listing)**
- **Delisting of streams: Delisting of streams due to improvement in the water quality based on the implementation of management measures and BMPs need to have the same level and priority of effort as listing of pollutants.**

The current USEPA TMDL policy does not recognize the BMP based nature of municipal stormwater programs nor does it clearly provide for load reductions to be measured by implementation of BMP programs. TMDL implementation plans need to reflect the fact that the NPDES municipal stormwater program is a BMP based program with a compliance standard of MEP.

Municipal stormwater management programs will be allocated specific waste loads as part of the TMDL process. While stormwater agencies acknowledge the fact that waste load allocations are a mandate of the TMDL process, the standard for compliance with those allocations must be linked to the MEP standard established in the CWA. Otherwise, local governments will be forced into cost prohibitive, unproven treatment technologies for pollutants that are generated by diffuse and uncontrollable sources.

Examples of the practical limitations facing municipal stormwater discharges would be TMDLs for heavy metals including copper, mercury and zinc. For example, up to 75% of the copper found in urban runoff is from brake pad wear or other non-controllable sources which deposit a very fine, copper contaminated dust onto road surfaces. Once copper is mixed in with runoff, it is very difficult (if not impossible) to remove, even with large scale treatment facilities. Stormwater agencies can implement BMPs such as educational campaigns urging consumers to purchase non-metallic brakes and controlling minor sources of copper from certain industrial sources. While these efforts will help reduce the amount of copper in stormwater discharges, the efforts of stormwater management programs alone will not result in achievement of numeric waste load allocations.

Only efforts beyond the control and resources of local stormwater programs, such as elimination of metallic brake pads or the construction of unaffordable, often unproven treatment systems, would result in compliance with numerical waste load allocations.

We must recognize that to base stormwater related TMDLs on water quality standards will be seriously problematic. Current standards are not based on best available science, existing or historical beneficial uses or even, in most cases, any beneficial use attainment analysis. In addition, current standards are based on ambient dry weather stream conditions and do not even consider water conditions in urban water bodies during wet weather periods.

Rather, EPA should strategically move forward with practical actions, based on current knowledge, focusing on achieving beneficial uses supported by the community, recognizing that future actions are likely to be modified on the basis of what we learn through an adaptive management strategy. Presumed compliance, by successfully implementing specified BMPs, similar to the CSO policy is the preferred and practical approach for complying with the waste load allocations in TMDL.

VII. Industrial Facilities

Amend the Clean Water Act to allow local governments at their discretion to include their own industrial facilities in their municipal permit; and if requested by municipal permittees, to allow but under no circumstances require, the transfer of the regulatory responsibilities to municipal permittees for industrial facilities discharging directly into the municipal stormwater system.

Under current law, local governments are required to submit individual stormwater permit applications for municipally owned industrial facilities they own in addition to their system wide permit. It would be more efficient to reduce the number of permits required by including those municipal industrial facilities requiring permits in the system wide permit.

There is interest by some (but by no means all) municipalities and regulators in having local agencies to administer the regulation of industrial dischargers that discharge directly into the municipal system. Under current law, all industrial dischargers are regulated by EPA or the state. Current law also mandates that local governments also exercise controls on the dischargers into the municipal system. Flexibility should be provided if requested by municipal permittees to allow, but under no circumstances require, federal and state agencies to transfer administration of regulatory responsibilities to municipal permittees for industrial facilities discharging stormwater runoff directly into the municipal stormwater system, thereby eliminating duplicated regulation of industrial permittees.

VIII. Construction Activities Management

Eliminate the duplicated construction activities permitting and turn it over to local governments to administer, or eliminate the provisions in municipal permits to administer the program. Modify the CWA to clearly define who

will administer the construction activities program and affirm that duplication in its administration is not in the interest of United States.

Under the current separate stormwater discharge permits, municipalities are required to have construction activities management programs, even though the permits for these activities are issued by the federal government or the states. This creates much confusion as to who is actually responsible for administration of these activities and much uncertainty regarding which level of government will enforce the construction permit conditions. In addition, the municipality is also subjected to enforcement actions if the federal government or the state determines that it is not pursuing construction management activities in sufficiently aggressive manner or the documentation is lacking on how it is being administered. The end effect is a waste of fiscal resources at all levels of government.

IX. Permit Simplification

EPA should develop guidelines for permit writers that would simplify permits and clearly identify performance standards based on the types of waters being protected and field performance of applicable BMPs.

NPDES permits for municipal stormwater discharges are becoming so cumbersome, prescriptive and complex that they actually impede progress on water quality improvements. Simplification is critical for success. Many permits are being written to require compliance with prescriptive water quality objectives without regard to the limitations of the drainage system, the ubiquitous sources of pollutants or the physical and fiscal realities of achieving the stated requirements. Even if treatment plant construction were mandated (NAFSMA in no way supports such a concept), it would take decades and many multiples of billions of dollars to re-plumb drainage systems and construct treatment plants and, will in fact, create other unforeseen environmental damages.

X. Phase II Municipalities

Permit requirements for Phase II municipalities have now become a major portion of permitted local jurisdictions. Providing significant pollutant reduction measures on limited budgets will be an increasing problem for these communities. We continue to believe that the permits should be limited to a number of simple, cost-effective and field-proven best management practices in order to be a success. NAFSMA recommends that we work with Federal and State agencies to provide expertise on what works and what doesn't in order to limit unnecessary spending.

The municipal stormwater program is in effect a large demonstration project. Until the Phase I and Phase II stormwater programs can be fully evaluated and determined to be cost effective, it is crucial the limited resources of Phase II communities be focused on a select list of field-proven best management practices that are practical, effective and affordable. Otherwise, the legal and regulatory battles that have impeded progress of the Phase I program will paralyze the Phase II program.

XI. EPA/State Funding, Research and Technical Assistance

Establish the capability at the state and/or federal level to fund support activities including new studies, pilot grants to communities, direct technical assistance to communities, and research that includes the gathering and maintenance of BMP field performance data. If BMP retrofit projects or other structural BMPs become required permitted activities, funding should be made available.

If the federal government is going to mandate such far reaching programs as the municipal NPDES stormwater permitting program, it needs to provide funding and the technical and research capabilities necessary to support the



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NAFSMA Position On Floodplain Management Issues

(Modified and Approved December, 2009)

I. Introduction

The National Association of Flood and Stormwater Management Agencies (NAFSMA), founded in 1978, is an organization of public agencies whose function is the protection of lives, property and economic activity from the adverse impacts of storm and flood waters. Most of the 105 member agencies either belong to the National Flood Insurance Program (NFIP) or represent agencies which belong to the NFIP. The total population represented by these agencies is in excess of 100 million citizens.

NAFSMA's mission is to advocate public policies which facilitate and enhance the achievement of the public service functions of its member agencies. NAFSMA is committed to working with all other groups, at any time, to resolve floodplain management issues.

II. Floodplain Management Committee Mission Statement

The Floodplain Management Committee tracks and influences federal legislation and regulations that affect NAFSMA member's floodplain management programs. This includes the National Flood Insurance Program (mapping issues, LOMRs, CLOMRs, insurance, national mitigation strategy, community rating system and levee policy), "all hazards" insurance and "takings" legislation. The Committee Acts as FEMA liaison and coordinates with the Association of State Floodplain Managers on issues of mutual interest.

III. National Flood Insurance Program and FEMA

NAFSMA has identified the following areas of concern with regard to the NFIP and how the Federal Emergency Management Agency (FEMA) is managing this program as it affects the public service functions of its member agencies. NAFSMA's positions regarding these areas of concern follow.

IV. Reauthorization of the National Flood Insurance Program

a. NAFSMA strongly supports the reauthorization of the National Flood Insurance Program (NFIP).

The NFIP has become an important part of every NAFSMA member's floodplain management efforts. Loss of the program would cause tremendous disruption in every member's ability to deal with the nation's flood risks, both current and future.

b. FEMA must retain a strong natural hazards component; including flood hazard mapping, map modernization, mitigation and disaster response. Therefore, FEMA should be returned to its previous status as an independent agency reporting to the President.

FEMA is now a part of the Department of Homeland Security (DHS). There is concern in the natural hazards mitigation community that FEMA's ability to respond to natural hazards has been compromised since the move to DHS.

c. NAFSMA supports legislation to create the effective equivalent of the Technical Mapping Advisory Council (TMAC). In the meantime, NAFSMA encourages FEMA to convene an annual meeting of floodplain management stakeholders as recommended by TMAC; and commits to actively participate in such meetings.

During its five-year existence the Technical Mapping Advisory Council (TMAC) provided a valuable forum for floodplain managers across the entire spectrum to come together and discuss floodplain management issues. In its final report the TMAC recommended that the Director of FEMA convene an annual forum of stakeholders to review the progress of the Map Modernization Program and discuss further improvements of FIRMs and related issues.

- d. **Changes in major aspects of the NFIP, such as subsidies for pre-FIRM structures and changes in areas where flood insurance purchase is mandatory, should only be accomplished after sufficient study to understand the short and long term implications of such changes.**

NAFSMA wants to insure that major changes to the existing structure of the NFIP are made only after the impacts of those changes are known to all stakeholders, and are deemed to be appropriate for the improvement of the program.

- e. **NAFSMA opposes adding other insurance, such as wind insurance, to the NFIP.**

Adding insurance for other hazards to the NFIP would unnecessarily complicate the floodplain management efforts of NAFSMA's members.

V. Mapping Issues

- a. **NAFSMA fully supports FEMA's completion of ongoing map modernization program studies.**

Funding for FEMA's map modernization program has ended but many studies are still in progress, which will convert the nation's Flood Insurance Rate Maps (FIRMs) to digital products (DFIRMs).

- b. **NAFSMA supports the new Risk MAP (Mapping, Analysis and Planning) initiative.**

It is very important for FEMA to insure the integrity of the map modernization products through frequent updates of the mapping products. It is also important for FEMA to map the communities missed during map modernization. Other positive aspects of Risk MAP include mapping and planning by watershed, analysis of community and national risk, assistance with mitigation planning, and new approaches to risk communication.

- c. **NAFSMA supports adequate funding of FEMA's new Risk MAP initiative in the Federal budget.**

Because the benefits of Risk MAP go beyond the sale of flood insurance, flood insurance policy holders should not be required to bear the full cost of the Risk MAP program; but rather the public as a whole should participate in the funding of the program.

- d. **NAFSMA encourages FEMA to continue its implementation of the CTP initiative, while utilizing NAFSMA member agencies to the fullest extent possible. This includes CTP participation in the Risk MAP program, technical review of LOMC applications, DFIRM maintenance, risk assessment and risk communication.**

FEMA's Cooperating Technical Partners (CTP) initiative is of particular interest to NAFSMA. Many NAFSMA member agencies have the expertise and financial capability to conduct the types of activities; such as hydrology, hydraulics, and topographic mapping; which are used to develop Flood Insurance Studies (FIS's), restudies DFIRMs and Letters of Map Change (LOMC). These agencies also often design and implement projects which reduce flood hazards and lead to the need to revise FIS's and DFIRMs. In some cases, these agencies are in the best position to certify the completion of these projects and complete the needed map revisions in a timely manner. These agencies also have the capability to maintain the DFIRM products to keep them current.

- e. **NAFSMA urges FEMA to utilize digital products as official documents as soon as possible for those communities willing and able to take advantage of them, while protecting the interests of those map users who do not yet have the digital capability.**

FEMA has implemented a "Use of Digital Flood Hazard Data" policy that allows the use of several digital products as official documents. Unfortunately, the production of paper FIRM panels is still required before any of the other digital products are made available.

- f. **NAFSMA encourages FEMA to consider showing other hazard layers on the National Flood Hazard Layer when requested by the local governments.**

In the past, NAFSMA has encouraged, and FEMA has allowed, the inclusion of future hydrologic conditions on the FIRMs, at the request of the local governments, for advisory or regulatory purposes (but not for purposes of flood insurance). FEMA should allow other hazards to be shown at the request of local governments.

- g. NAFSMA agrees with the Technical Mapping Advisory Council that maintenance activities should be exempt from 404 permit requirements.**

FEMA requires local governments to assure the maintenance of flood carrying capacity of flood management projects, such as enlarged channels, as a condition of revising FIRMs to reflect the effects of the projects. At the same time the Corps of Engineers, under its 404 permit process, makes it more difficult and expensive for local governments to perform the required, and necessary, maintenance. The Technical Mapping Advisory Council, in its 1998 annual report, encouraged FEMA to work with the Corps of Engineers to develop 404 permit regulations which exempt maintenance of FEMA credited flood management projects.

- h. FEMA should revise its procedures to require map determination companies to accept credible technical evidence from local government officials regarding the determination of flood insurance purchase requirements. Further, FEMA should periodically evaluate and report the accuracy of the determinations made by the various companies.**

A number of NAFSMA member agencies have had experiences with map determination companies where obviously incorrect determinations have been made, resulting in erroneous flood insurance purchase requirements which have cost citizens insurance premiums that they should have not have had to pay. These companies generally refuse to accept more detailed and/or more current information from the local governments, no matter how knowledgeable these agencies are about the flood hazards in their own communities.

VI. Flood Management Projects

- a. FEMA should work with affected local governments to select and support the mitigation alternatives most appropriate for each situation.**

There are a tremendous number of existing structures within identified floodplains in this country; most of which were constructed before floodplains were mapped, or modern floodplain management techniques were widely used. The protection of these existing structures, and the physical and economic well-being of their occupants, is a matter of great importance to the member agencies of NAFSMA. In many instances the best way to mitigate the flood hazard in these areas (measured in terms of costs, time involved and social disruption) is with remedial projects utilizing structural flood management methods.

There are certainly differences between remedial projects and preventive projects. Non-structural methods, such as floodplain regulations, subdivision regulations, land acquisition, and other activities that preserve the natural and beneficial functions of the drainageways, are most appropriate and cost effective in preventive situations dealing with new development. In many instances, non-structural methods are not cost effective or timely in providing remedial solutions to existing flood hazards. It is infeasible to think that all of these existing structures are going to someday be removed and the land returned to open uses compatible with the flood hazard; and yet that seems to be the focus of FEMA's mitigation philosophy. Structural solutions can include elements that enhance the natural and beneficial functions of the projects, and these should be considered acceptable in many instances.

Levees can present difficult problems for local governments, including those enrolled in the National Flood Insurance Program (NFIP). When levees fail, or are overtopped, the results can be catastrophic. There are millions of lives and billions of dollars of property already at risk behind levees. Therefore, FEMA requires a never-ending commitment from NFIP participants to assure adequate operation and maintenance of any levee accredited by FEMA on a Flood Insurance Rate Map (FIRM) communicating the flood risk to property owners behind a levee is also a problem. In light of these problems it would be prudent to limit the increase in people and property at risk behind levees.

- b. FEMA should modify its grant conditions to allow consideration of the use of these acquired properties for cost effective flood management projects which reduce flood hazards and are compatible with the overall objectives of the particular grant program.**

FEMA has structure buyout/relocation grant programs which generally impose conditions on the acquired property which prohibit the use of the property for any structural flood management measures. While it is recognized that

FEMA's emphasis is on non-structural solutions, a blanket prohibition on structural solutions can be counterproductive. For example, an excavated floodway could reduce flood hazards while still preserving the open space intent of the original grant programs.

VII. Mitigation Grant Programs

NAFSMA strongly believes in both pre- and post-disaster mitigation activities and urges full funding of both programs.

Recent budgets have reduced the post-disaster Hazard Mitigation Grant Program (HMGP) and also established a competitive pre-disaster mitigation grant program.

VIII. Community Rating System

- a. FEMA should continue past efforts to reduce paperwork associated with the CRS, including coordination of required information between neighboring jurisdictions, state and regional agencies, and Federal programs with similar information requirements. NAFSMA is willing to assist FEMA in the identification of common information required by different Federal programs and to try to streamline submittal requirements. Further, NAFSMA member agencies would appreciate a CRS evaluation process which demonstrated more trust in the local agencies.**

The Community Rating System (CRS) was adopted by FEMA, and later codified by Congress, to encourage participants in the National Flood Insurance Program (NFIP) to do more than the minimum required by the NFIP in return for reduced flood insurance premiums within the communities. Points are awarded for activities undertaken by the local governments, and the amount of the premium reduction is based on the number of points the community receives.

The current amount of paperwork required to apply to and remain in the CRS has been reduced from the time it was first initiated, but NAFSMA member agencies believe that there is still room for more improvement. In addition, member agencies continue to be dismayed with the lack of trust FEMA shows in local governments with regard to the accuracy of their paperwork.

Many urban areas are fragmented among many local jurisdictions, each of which are individual participants of the NFIP and CRS. As such, each jurisdiction must submit its own paperwork, resulting in duplicate work for regional efforts, such as flood warning plans and stormwater management efforts. Other Federal programs also require submission of essentially duplicate information from time to time.

- b. NAFSMA fully supports continued participation in the Community Rating System Task Force.**

VIII. Conclusion

The member agencies of NAFSMA want to work with FEMA on the common goal of protecting the lives and property of American citizens. However, they want their commitment, their expertise and their unique circumstances to be recognized by FEMA, and they want their work products to be more readily accepted by FEMA. We have to work together. To do otherwise is to waste precious resources.



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NAFSMA Position On Flood Risk Management Issues *(Modified and Approved June 17, 2010)*

I. Introduction

The National Association of Flood and Stormwater Management Agencies (NAFSMA), since its founding in 1978, has represented state and local public agencies nationwide. It is an association committed to improving and ensuring the continuation of water resource projects and programs of interest to flood and stormwater management agencies.

NAFSMA's mission is to advocate public policy, encourage technologies and conduct education outreach to facilitate and enhance the achievement of the public service functions of its member agencies. NAFSMA is committed to working with federal agencies and other groups to resolve flood risk management issues.

Needed flood damage reduction, environmental restoration and watershed planning projects face significant cost increases and missed opportunities for safety, economic, and environmental improvements while waiting for federal approval and funding. Local, regional, and state agencies are facing severe economic hardships, many facing layoffs and furloughs within their own individual organizations. While it is always important, during these tough economic times it is imperative that we all find ways to reduce costs, expedite studies, minimize reviews and accelerate permitting so we all can be proud in building projects that reduce the loss of life and property from flood threat while at the same time using public dollars to put people to work.

II. Flood Management Committee Mission Statement

The Flood Management Committee coordinates and resolves member issues related to federal flood risk management programs, regulations, and funding. The committee maintains active liaison relationships with the Army Corps of Engineers, Federal Emergency Management Agency (FEMA) and other federal agencies involved with federal flood risk management programs, regulations and funding. Particular emphasis is on the Water Resources Development Act, Clean Water Act, Watershed Protection and Flood Prevention Act, National Dam Safety Program, National Levee Safety Act and other acts, programs, implementation and/or policy guidance originating in the federal government.

III. General Statement

- a. NAFSMA encourages coordination among the federal agencies involved in flood risk management and related activities so that federal policies are developed and implemented in an integrated and consistent fashion.**

For example, the Corps of Engineers and FEMA have worked work closely together in recent years on levee and other flood risk management project issues. NAFSMA encourages continued coordination especially in the levee certification, planning, risk communication, operation, and maintenance areas.

- b. NAFSMA strongly encourages the recognition of regional diversity and local responsibility in the development of new, and implementation of existing, policies and programs; and inclusion of local, regional, and state entities in the development of policies, programs, regulations, and guidance.**

NAFSMA understands the need for national policies and programs. However, NAFSMA also encourages recognition of the regional diversity in the United States, the difficulty of a “one size fits all” approach, and that local and regional entities have the lead role and responsibility in local land use decision making.

- c. NAFSMA is concerned about emerging policies, procedures, programs and/or laws that have been, and continue to be, promulgated after the Gulf Coast Hurricanes of 2005.**

For example, NAFSMA supports development and implementation of quality projects; however, the additional internal and external reviews now required will increase the time and costs, but are not likely to improve project quality. Also, NAFSMA supports the risk based analysis method being developed for evaluation of alternatives for new projects, but recommends that non-federal sponsors be included in the development of guidelines for such analysis and reporting of results.

- d. NAFSMA understands the need for certain changes to federal policy and laws and is willing and ready to assist in the deliberations in a timely manner.**

NAFSMA has provided comments on the National Committee on Levee Safety Report, the initial drafts of the proposed update of the Principles and Standards for Water Resources Implementation Studies, and draft legislation. NAFSMA also presented testimony to the House Committee on Transportation and Infrastructure on the Recommendations of the National Committee on Levee Safety and WRDA 2010.

- e. NAFSMA recommends that when a new policy, guidance, or law is enacted, a reasonable transition period or grandfather clause is allowed for studies, issued permits, and projects underway to avoid unreasonable and undue hardships or time delays, subject to the non-Federal sponsor’s request for accelerated implementation**

- f. NAFSMA supports the Department of Homeland Security’s efforts to study and deploy security measures to help protect levees and other flood risk reduction facilities.**

NAFSMA is actively participating and currently chairs the Levee Sub-Sector Coordinating Council.

- g. NAFSMA recommends a federally-led unified, targeted climate change research effort to establish public policy based on best-available scientific research, and estimate future climate change conditions for each hydrological region. NAFSMA encourages strong and deliberate interagency cooperation and coordination among federal agencies, and the inclusion of state and local officials in the research and policy development.**

IV. Federal Authorization/Appropriation Issues

NAFSMA members utilize all available means (private, local, state, and federal programs and funding sources) in order to provide and maintain the flood protection projects, emergency repairs, and programs necessary to reduce the risk of loss of life and property damage in a cost effective and environmentally sensitive manner. Many projects are of such a scope and magnitude that local and state programs do not have the resources to implement them and the federal government is called upon to aid in their realization. NAFSMA members and the federal government realize that projects and programs that reduce flood risks are beneficial and that minimizing flood

losses, either structurally or non-structurally, is a better posture for the government than responding to a flood disaster with local, state and federal recovery programs.

Members are only afforded certain opportunities to seek federal projects and federal funds. Further, projects and policies evolve over time to respond to local, state and federal needs. The federal authorization and appropriation bills are the mechanism to pursue policy changes, project language and funding of needed flood risk management and watershed projects.

- a. **NAFSMA supports biennial Water Resources Development Acts as a means to seek new projects, modify previously authorized projects, and to seek policy changes that support programs that reduce flood risks, restore ecosystems, provide quality recreation, and improve the environment in our communities.**
- b. **NAFSMA recommends that NAFSMA representatives be included in the development of the Policy Guidance for applicable sections of WRDA 2007 and for subsequent Water Resource Development Acts.**

This recommendation supports positions III. b, c, and d. above.

- c. **NAFSMA encourages the federal government to make sufficient annual appropriations and to provide total funding for individual studies that support flood risk reduction projects, programs, and studies.**

Specifically, increase the amount of funding for water resource projects, rather than reallocate current appropriations. Providing total funding for studies will reduce the time and costs to complete studies by reducing the numerous slowdowns and restarts that currently occur due to lack of funding or funding uncertainty.

- d. **NAFSMA recommends developing a process for establishing flood risk reduction study and project priorities in the U.S.**

With increasing budget limitations and increasing need for flood risk reduction, it is time to develop a process to establish national priorities that are both realistic and fair. The priority recommendations would be provided to the Congress and the President who make the ultimate decisions.

- e. **NAFSMA supports periodic review and modification of all laws, regulations, policies, procedures, and guidance to expedite implementation of flood risk management and water resource projects.**

For example,

- the Corps of Engineers efforts to reduce the time to identify projects and reduce redundancies and unnecessary steps by utilizing the Lean Six Sigma Process,
- the inclusion of Section 2033, "Planning" in WRDA 2007 establishing a goal to complete feasibility studies in 2-4 years, and
- the inclusion of Section 2045, "Streamlining" in WRDA 2007 that reduces delays by addressing reviews and dispute resolution.

The ongoing effort to update the Principles and Guidelines is also a good opportunity to reduce the planning and study time and costs.

- f. **NAFSMA supports implementation of 18 of the 20 recommendations made by the National Committee on Levee Safety and continuation of the committee to assist with accomplishing the**

national objectives. (For NAFSMA's comments on the recommendations and their implementation, see nafsma.org.)

NAFSMA urges prompt implementation for those recommendations for which there is broad support and consensus. For those recommendations where support and consensus has not yet been reached NAFSMA supports continued evaluation and discussions.

- g. NAFSMA supports the current federal project cost sharing of sixty-five percent federal/thirty-five percent local. NAFSMA further supports the development of incentives that, if implemented by the community, would allow the project cost sharing to be modified upwards to seventy-five percent federal/twenty-five percent local.**
- h. NAFSMA supports policies and programs that allow local implementation of federal projects where advantages and effectiveness can be demonstrated and agreements that allow for reimbursement of the project's federal share such as Section 211 of WRDA 1996.**
- i. NAFSMA supports full funding of the U.S. Geological Survey's streamgaging programs – the Cooperative Water Program and National Streamflow Information Program. Stream gage data is the backbone of our national and local water resources projects, programs, and everyday operations.**
- j. NAFSMA supports Corps of Engineers development of scope and cost estimates for work needed, for those Corps-owned and operated projects which do not meet National Flood Insurance Program accreditation criteria or the Corps' Inspection of Completed Works criteria, to bring those projects into conformance with the more stringent of those criteria. NAFSMA also supports the Corps of Engineers performing the needed work.**
- k. NAFSMA encourages the Corps of Engineers to develop guidance and policies for deauthorizing all or portions of federally authorized and constructed projects that have exceeded their useful life or where other preferred alternatives (e.g. nonstructural) exist that can provide the same benefits.**

V. Planning and Feasibility Study Issues

NAFSMA members and the federal government work together on Feasibility Studies to identify projects that qualify for federal involvement and are acceptable to local communities. To improve the quality of the projects, reduce the time to complete the study, and improve the federal/local partnerships, specific issues are presented below.

- a. NAFSMA supports the evaluation of all reasonable project alternatives ranging from structural to nonstructural flood risk management solutions and programs.**
- b. NAFSMA supports multi-objective efforts within an entire watershed, also known as integrated water resources planning and management, that includes flood risk management, water quality, ecosystem restoration, environmental preservation and enhancements, aesthetics, and/or recreation.**
- c. NAFSMA supports a planning process and procedures that strive for a balance between economic, environmental, and social benefits and encourages multi-objective flood risk management projects.**

The current effort to update the Principles and Guidelines for Water Resources Implementation Studies is a good opportunity to incorporate factors such as environmental enhancement or preservation in addition to economics in plan evaluation and selection. More “weight” needs to be given to environmental and preservation activities to reflect more accurately the true benefit to the community and ultimately to encourage more widespread incorporation of such measures.

- d. NAFSMA supports collaborative planning and partnerships that are formed amongst all parties, including local, state, and federal agencies, with the goal being to seek participant consensus on recommended flood risk management and water resource projects.**
- e. NAFSMA advocates the federal government use of true costs and benefits incurred by the local sponsor for lands, easements, rights-of-way, utility or public facility relocations, and dredged or excavated material disposal areas (LERRDs), construction, environmental mitigation, operation and maintenance during the feasibility phase of the project. The true costs include those costs mandated by laws, rules, and regulations of local, state, and federal governments.**
- f. NAFSMA recommends the elimination of Preconstruction Engineering and Design cost sharing agreements.**
- g. NAFSMA supports non-federal sponsors receiving full credit for all legitimate project related expenses, similar to credit received by the Corps of Engineers for project related expenses.**
- h. NAFSMA supports non-federal sponsors receiving credit (include in LERRD costs) for CERCLA activities necessary for project execution.**

VI. Operation, Maintenance, Repair, Replacement and Rehabilitation Issues

It is essential to perform maintenance activities before a project becomes functionally impaired or failures begin. NAFSMA advocates normal operations and maintenance activities be allowed to be performed so that the flood risk mitigating aspects and multi-objective aspects of a project can be met and the community can realize the project benefits. NAFSMA members are also seriously concerned about aging flood risk management infrastructure throughout the nation. Flood risk management projects constructed under Public Law 566 and other federal programs are nearing the end of their useful life (50-year design life). NAFSMA advocates the rehabilitation of the aging flood risk management infrastructure in order to address critical public health and safety issues throughout the nation.

- a. NAFSMA recommends federal assistance with federal environmental permitting from the Corps of Engineers and other federal agencies, to enable timely and needed operations and maintenance activities for federal flood damage reduction projects and other non-federal projects.**
- b. NAFSMA supports the inclusion of federal permitting in operation and maintenance manual or a watershed or watercourse plan that allows the local agency to perform the required maintenance and/or construction without the need to obtain additional federal permits.**

For example, the permit should include provisions in Engineering Technical Letter 1110-2-571 which addresses vegetation maintenance on levees and embankments, and should preempt enforcement of other regulations and policies inconsistent with the ETL.

- c. **NAFSMA encourages federal support and financial assistance with research and development of economical ways to perform operation, maintenance, repair, rehabilitation and replacement of flood risk management infrastructure such as levees, dams, channels, drainage structures, tidegates, and floodgates, that have outlived their useful life.**
- d. **NAFSMA supports a review of all flood risk management projects that have been constructed in partnership with the federal government to determine what programs and funding are required to repair, replace, and/or rehabilitate the aging infrastructure.**
- e. **NAFSMA supports changes to the Project Partnership Agreement (PPA) that would limit the contractual liability of operation, maintenance, repair, replacement and rehabilitation (OMRR&R) requirements on the local sponsor to the design life of the project.**
- f. **NAFSMA advocates the Corps of Engineers, Natural Resource Conservation Service and FEMA develop clear and concise rules and/or regulations to eliminate any conflicts as far as which agency is responsible to provide federal assistance for repair, rehabilitation, or replacement after a federal emergency declaration.**
- g. **NAFSMA strongly recommends that the Corps of Engineers reconcile conflicting requirements arising between internal Corps of Engineers policies and regulations involving construction projects, routine maintenance, emergency repair work, habitat analysis, vegetation management, and environmental regulations. The Corps of Engineers should internally resolve issues rather than rely on local agencies to resolve and pay for conflicting direction.**

For example, the conflict between Corps-promulgated maintenance requirements (e.g. R.I.P. requirements to remove vegetation near levees) and Corps environmental requirements (e.g. costly mitigation for removing riparian vegetation).

VII. Permitting

NAFSMA members understand that environmental issues must be addressed and/or mitigated to allow project construction. Of concern to NAFSMA members is the reasonable application of Section 404 permits nationwide.

- a. **NAFSMA supports the development of reasonable guidelines, standards and mitigation requirements that recognize regional differences.**
- b. **NAFSMA advocates environmental permits be issued and mitigation requirements be completed for long term operations and maintenance activities before a new civil works project is turned over to the local sponsor thereby avoiding any future issues that would restrict or prohibit the operations and maintenance activities.**
- c. **NAFSMA encourages the Corps of Engineers to better coordinate with all local, state and federal agencies to streamline the issuance of federal permits, and to reconcile any differences in Corps of Engineers policies and regulations.**
- d. **NAFSMA supports and encourages the Corps of Engineers to make personnel available to participate with members early and throughout the planning, design and permitting phases of new civil works projects to address all environmental issues and regulations in order to obtain the necessary permitting in a timely and uncontested manner. Also, NAFSMA supports the**

development of mechanisms, such as the use of mediation, to encourage the resolution of policy discrepancies.

e. NAFSMA supports adequate Agency funding for regulatory permitting.