

Flood Management Committee Agenda

Thursday, October 22, 2009

Rocky Mountain C - 8-9 am
Broadmoor – Colorado Springs, Colorado

Led by Steve Fitzgerald, Chairman

1. Introductions & Committee Membership
2. Old Business
 - a. WRDA 2007 - Implementation Guidance Update
 - b. Levee Subcommittee
3. WRDA 2010 Status
4. Principles and Guidelines Update
5. Improving the Corps Planning Process Status
6. Proposed Sustainable Watershed Planning Bill Status
7. Proposed Update of Executive Order 11988 Status
8. Regulatory Issues
 - a. Clean Water Act Revision Update – “Navigable” and “Maintenance Exemption”
 - b. Section 214 Extension
9. Levee Topics
 - a. Maintenance and Corps permits
 - b. NCLS Status
10. Review/Discussion of Proposed Update of the Flood Management Position Paper
11. 2010 Committee Objectives & Volunteers for Tasks
12. Next Meeting/Conference Call



**National Association of Flood & Stormwater Management
Agencies**

1333 H Street, NW, 10th Floor West Tower, Washington, DC 20005
Phone: 202-289-8625 Fax: 202-530-3389 www.nafsma.org

Testimony of the National Association of Flood
And Stormwater Management Agencies

Presented by Steve Fitzgerald, PE
NAFSMA Director and
Flood Management Committee Chair
Chief Engineer, Harris County Flood Control District,
Houston, Texas

“Recommendations of the National Committee
on Levee Safety”

U.S. House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Water Resources and Environment

Rep. Eddie Bernice Johnson, Chairwoman

May 19, 2009

The National Association of Flood and Stormwater Management Agencies (NAFSMA) is very pleased to submit this testimony regarding the “Recommendations of the National Committee on Levee Safety” on behalf of its membership.

Background on NAFSMA

NAFSMA is a 30-year old national organization based in the nation’s capital that represents close to 100 local and state flood and stormwater management agencies, most of which are in large urban areas. Its members serve a total of more than 76 million citizens by providing flood and/or stormwater management; and as a result, the association has a strong interest in the proposed recommendations of the National Committee on Levee Safety.

The mission of NAFSMA is to advocate public policy and encourage technologies in watershed management that focus on issues relating to flood protection, stormwater and floodplain management in order to enhance the ability of its members to protect lives, property, the environment and economic activity from the adverse impacts of storm and flood waters.

Formed in 1978, NAFSMA works closely with the U.S. Army Corps of Engineers (Corps), the Federal Emergency Management Agency (FEMA), and the U.S. Environmental Protection Agency to carry out its mission. NAFSMA members are on the front line protecting their communities from loss of life and property, while also improving the quality of the nation’s surface waters and riparian habitats.

Responsibilities of NAFSMA members are diverse and include: local sponsorship for federal flood management (including levees) and water quality projects; operation and maintenance of federal and local flood damage reduction projects; establishing and enforcing criteria for new land development; environmental stewardship; activation before, during, and after floods; flood recovery; and actively communicating with constituents and the public. Most members have levees as one of their flood risk management “tools” in their community. At the local level, NAFSMA members are dealing directly with increased populations and helping to guide design and construction of low flood risk and affordable neighborhoods. Many of these neighborhoods will be built behind existing or future levees.

NAFSMA is pleased to present the views of our member agencies on the “Recommendations of the National Committee on Levee Safety”, as well as some ideas on how to move forward.

General Comments on the Recommendations

First, I had the honor of representing NAFSMA at the National Levee Safety Committee Review Team meeting in December 2008, and meeting the Committee members who represented both the breadth and depth of levee experience in the U.S. from all levels of government and the private sector. They dedicated and sacrificed three and a half months of their lives to developing and completing this report on time because they know and understand first hand the urgency of improving levee safety in this country. Mr. Eric Halpin, as Vice Chair, I applaud you and the entire Committee. While all committee members brought many years of experience to the table and each made important contributions, one member in particular brought a recent personal experience of learning first-hand the consequences of major flooding behind a levee system that was overwhelmed by a storm well exceeding the levee design. That is Bob Turner from St. Bernard Parish, which adjoins New Orleans. Their parish was devastated more than any other leveed area during Hurricane Katrina (only 5 buildings were not flooded). Yet under Bob's leadership along with others, the community is getting back on its feet with help from hard working local people, volunteers, and federal financial assistance.

Second, this is by far the most comprehensive and complete report that clearly lays out all aspects of levees - responsibility, authority, risks, funding, historic perspective, inventory, public education, operations, maintenance, flood insurance, and many other topics. While this report focuses on levees, many of its ideas, approaches, and recommendations are applicable to the broader issue of Flood Risk Management and to other flood risk reduction "tools" such as open channels, detention basins, and buyouts. As stated in the report, improving levee safety will be most effective if it is conducted within the context of a national flood risk management program.

Third, it is important to echo the first basic principle considered by the Committee – levee safety is a shared responsibility. Responsibilities lie at all levels of government (as well as with contractors and consultants) and with persons whose lives and property are located behind levees. NAFSMA members clearly understand we have a responsibility; we just need to continue to work with the federal government to clarify each of our responsibilities, and then do a better job communicating those and individual responsibilities with the people who live behind levees.

Fourth, while everyone may not agree with all of the 20 recommendations in the report, it is paramount that implementation of the ones that we can agree on begin as soon as possible. I know if each federal government branch, office, and committee that has a role in developing, creating, and funding the National Levee Safety Program makes it a priority and agrees with the fundamental goals, together, we can make it happen. The first

version won't be perfect, but it will be a good start toward protecting people and property from floods.

Specific Comments on the Recommendations

I am not going to go over each of the 20 recommendations, today. I am going to identify the ones we feel are not controversial and the ones NAFSMA feels need further study. I'll divide them into three groups – ones that need to be implemented ASAP, those that will take longer to implement but should come next, and the ones that created the most discussion among our members and need further review.

Implement ASAP

- #2. Expand and Maintain the National Levee Database to include non-federal levees
- #3. Adopt a Hazard Potential Classification System
- #4. Develop and Adopt National Levee Safety Standards (National standards would be applicable to all federal and non-federal levees; standards particular to a region or type of levee would be developed at the state or regional level)
- #6, #7, and #8. Remove Barriers Associated with Liability
- #10. Provide Comprehensive Technical Materials and Direct Technical Assistance
- #12. Develop and Implement Measures to More Closely Harmonize Levee Safety Activities with Environmental Protection Requirements (See "Operations and Maintenance - Environmental Permits Dilemma" below; recognize regional variations)
- #14. Design and Delegate Program Responsibilities to States (Owners and operators continue to be responsible for crucial day-to-day activities; delegation allows program development to account for regional differences)
- #15. Establish Levee Safety Grant Program (Cost shared and eligibility requirements)
- #16. Establish the National Levee Rehabilitation, Improvement, and Flood Mitigation Fund (Cost shared and eligibility requirements)
- #19. Augment FEMA's Mapping Program (to improve risk identification and communication in leveed areas)
- #20. Align FEMA's Community Rating System (CRS) to Reward Development of State Levee Safety Programs

Implement Next

- #5. Develop Tolerable Risk Guidelines
- #9. Develop a Comprehensive National Public Involvement/Awareness Campaign to Communicate Risk and Change Behavior in Leveed Areas (In conjunction with state and local agencies)
- #11. Develop a National Levee Safety Training Program (Encourage mutual-aid agreements among local agencies, as well)
- #13. Conduct Research and Development Program
- #17. Explore Potential Incentives and Disincentives

Further Review

- #1. Establish a National Levee Safety Commission

An independent commission would have a single mission on which to focus unlike the current situation where levee issues are spread between the Corps and FEMA. It is probably the smart thing to do to develop a strong national program and to help resolve responsibility at all levels of government. However, some NAFSMA members are skeptical of another layer of government. It is suggested to begin implementation of the recommendations under “Implement ASAP” above under the current good Corps/FEMA Interagency Coordination Committee until this is resolved. In other words, do not let this one recommendation hold up progress on some very important actions that can be initiated.

- #18. Mandate Purchase of Risk-Based Flood Insurance in Leveed Areas

Many NAFSMA members are very concerned about the inclusion of this requirement in the National Levee Safety Committee Recommendations. Although NAFSMA agrees that participation in the National Flood Insurance Program (NFIP) helps to reduce the impact of financial damages on individuals and businesses and raise awareness in participating communities, it does not provide flood protection to individuals, homes or businesses and it does not change their flood risk. Many of our communities already participate in the NFIP and urge residents in levee-protected areas to purchase flood insurance. This type of approach may be considered with new flood damage reduction projects in the future, but would be difficult to mandate on existing projects.

NAFSMA believes that further analysis is necessary before Congress approves such a far-reaching, one-size-fits-all approach to flood insurance. While some proposals have provided for the implementation of actuarial pricing for policies issued under a mandatory flood insurance program, NAFSMA is very interested in seeing how the risk-based approach and premium formulas would be developed for the NFIP behind levees. NAFSMA is concerned about how this proposed mandate would be implemented and its associated costs and benefits. The current flood insurance program views all flood control structures similarly and does not distinguish between differing risks of participating communities. The current program also fails to acknowledge that flood control structures, like levees, can fail for various reasons or that approximately 25% of all flood insurance damage claims are from areas outside the 100 year floodplain limits. All of these factors need to be taken into account to determine the proper actuarial rate.

NAFSMA believes that a more responsible and effective approach would involve the development of criteria for evaluating the differing types of flood risks that communities face and how to protect against those risks, and the long-term impact that the mandatory purchase requirement would have on local communities and their economies. We urge that such a study of the issues and impacts be completed before such a change is implemented on a nationwide basis. NAFSMA agrees with the House approach in the bill approved last congressional session calling for a study of these impacts to be carried out before Congress mandates such a change.

Operations and Maintenance - Environmental Permits Dilemma

Recommendation #12. “Develop and Implement Measures to More Closely Harmonize Levee Safety Activities with Environmental Protection Requirements “ is particularly important to NAFSMA members who are currently trying to maintain the integrity and strength of their existing levees so they will hold up to water pressure and erosion forces. Currently, there is a lack of consistency by federal regulators and environmental agencies in the permitting/guidance of levee maintenance that is resulting in unpredictable requirements and timelines. Specifically, the management of deep-rooted vegetation on levees has become controversial. Conflicting regulatory and environmental agencies’ views are resulting in long delays or inability to perform needed infrastructure maintenance. NAFSMA concurs with the Levee Safety Committee that acceptable operation and maintenance practices need to be developed in conjunction with and coordination with state and federal environmental agencies so lives and property can be protected, and significant environmental and natural resources are not impacted.

Potential Challenges

As with other national programs that include delegation to states, the primary challenges involve consistency and sufficient funding.

Consistency is important when levee and other flood risk management components overlap between states or are adjacent to one another. The laws of physics and water flow trump our human laws. With strong oversight at the national program level, these challenges can be overcome similar to the Interstate Highway System.

Another consistency concern is that some states may not be able to carry out a state levee safety program for a variety of reasons. NAFSMA recommends that regional or local districts have the option to develop a regional levee safety program delegated directly down from the National Levee Safety Program, where appropriate.

Adequate or sufficient funding is the more difficult challenge. Funding and budget priorities vary among states and change over time. Implementation of Recommendations #15 and #16 that provide cost shared funding to states is important for addressing the funding challenge.

Closing

In closing, I want to emphasize the need to pay attention to the details when implementing these recommendations so the original intent of Congress and the intent of the Levee Safety Committee are followed. We all need to read the details, thought processes, and justifications for each of the recommendations in the report, not just the executive summary. NAFSMA recommends continuing to utilize the experts and practitioners on the Levee Safety Committee to ensure effective and timely implementation of the National Levee Safety Program to reduce flood risk, loss of life, property damage, and recovery costs.

Thank you for the opportunity to present the view of the National Association of Flood and Stormwater Management Agencies.