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ENVIRONMENTAL QUALITY DIVISION EIS/RELATED DOCUMENT REVIEW



ER-97/0135 ENVIRONMENTAL ASSIGNMENT

DATE: 04/03/97

DOCUMENT TITLE: FLOODPLAIN MANAGEMENT & PROCEDURES FOR EVALUATION & REVIEW
OF LEVEE & ASSOCIATED RESTORATION PROJECTS

DOCUMENT TYPE: REVIEW APPLICATION

APPLICANT: OMB/CEQ

WASO REVIEW: 2380* FLORA/ISA/MORLOCK

2310*2350*2360*2420*2301*2225 2240

REGIONAL REVIEW: AKSO*CCSO*PGSO*PISO*SWSO*CPSO*RMSO*GLSO*SERO*CHSO*NESO*NCSO*DSC*

REVIEW INSTRUCTIONS:

PLEASE CALL NPS WASO-2310 ASAP IF REVIEW SHOULD BE REASSIGNED (202) 208-4258

OTHER INSTRUCTIONS/ REMARKS:

FOR YOUR INFORMATION!

2380 - FLORA* (LEAD) 2350 - HAUGE* 2360 - WOODS*
2420 - NORTON* 2301 - MILLER*

DATE RECEIVED IN THE DIVISION OF ENVIRONMENTAL QUALITY: 03/24/97

*REPRESENTS COPY(S) OF DOCUMENT SENT TO WASO STAFF/REGION.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

MAR 12 1997

Memorandum

To: Assistant Secretary, Indian Affairs
Director, Fish and Wildlife Service
Director, National Park Service
Director, Geological Survey
Director, Office of Surface Mining
Director, Minerals Management Service
Director, Bureau of Land Management
Commissioner, Bureau of Reclamation

From: Team Leader, Natural Resources Management
Office of Environmental Policy and Compliance

Subject: Review and Application of Floodplain Management and
Procedures for Evaluation and Review of Levee and
Associated Restoration Projects (ER97/135)

The Office of Management and Budget along with the Council on Environmental Quality has provided the Department with the attached document.

Please insure that it receives wide distribution in your bureau to all who administer floodplain management related programs.

Terence N. Martin
Terence N. Martin

Attachment

cc: Assistant Secretaries
Jim Douglas (MS7356MIB); with attachment


OEPC-Staff Contact: **Terry Martin - 202/208-5465**

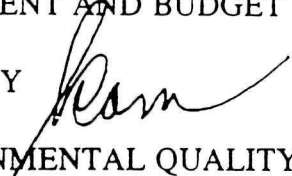


EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 18, 1997

MEMORANDUM TO ARMY CORPS OF ENGINEERS
DEPARTMENT OF AGRICULTURE
DEPARTMENT OF COMMERCE
DEPARTMENT OF HOUSING & URBAN DEVELOPMENT
DEPARTMENT OF THE INTERIOR
DEPARTMENT OF TRANSPORTATION
ENVIRONMENTAL PROTECTION AGENCY
FEDERAL EMERGENCY MANAGEMENT AGENCY
SMALL BUSINESS ADMINISTRATION

FROM: FRANKLIN D. RAINES 
DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

KATHLEEN A. MCGINTY 
CHAIR
COUNCIL ON ENVIRONMENTAL QUALITY

SUBJECT: Floodplain Management and Procedures For Evaluation and Review of
Levee and Associated Restoration Projects

Purpose:

The purpose of this guidance is to ensure that agencies fully consider relevant options, including non-structural alternatives, during evaluation and review of levee repair and reconstruction projects and associated restoration necessitated by 1996 and 1997 floods. It is also our intent to ensure that relevant organizations have the opportunity to comment on project specifications and suggest appropriate modifications.

The overall goal is to achieve a rapid and effective response to damaged flood and floodplain management systems that will minimize risk to life and property, while ensuring a cost-effective approach to flood damage mitigation and floodplain management and the protection of important environmental and natural resource values that are inherent to the floodplain and adjacent lands.

This guidance is not intended to deny any party access to existing programs for levee repair and associated restoration, where that is in accord with sound financial and

environmental practices, nor to create unnecessary or avoidable delays. On the contrary, it recognizes that there are ongoing short-term measures that must be taken to restore and maintain appropriate levels of protection for this flood season and that these efforts must be implemented as expeditiously as possible.

Background:

In the past several years, severe flooding problems have drastically affected many parts of this Nation. In response to the Midwest floods of 1993 and other floods since then, the Administration has worked to improve our flood and floodplain management policy in order to reduce the loss of life and property caused by floods, and to restore the natural resource and functions of floodplains.

An important tool in development of Administration policy has been the 1994 report on improving Federal flood response and floodplain management that was produced for the interagency task force created to deal with the 1993 Midwest flooding. Entitled *Sharing the Challenge: Floodplain Management into the 21st Century*, this work established three broad policy goals:

- Share responsibility for floodplain management among all levels of government and with all citizens of the Nation;
- Act sequentially to avoid, minimize, and mitigate flood and floodplain damage; and
- Organize better government response to floods and floodplain management needs.

These goals are embodied in the guidance procedures described below.

Guiding Principles and Lessons Learned:

This guidance reflects lessons learned and policies established in the last four years. It should be viewed as an opportunity and a mandate to consider long-term alternatives with input from Federal, State, Tribal, and local interests. As stated above, however, it is not intended to deny any party access to existing programs for levee repair and associated restoration, where that is in accord with sound financial and environmental practices, nor to create unnecessary or avoidable delays.

In acting upon applications for levee repair and associated restoration of damages incurred as a result of the Pacific Northwest, Northern California, and other floods of 1996 and

1997, consistent with existing authorities, appropriate Federal agencies shall follow the procedures below:

- Drawing on the example set by the Disaster Field Office structures instituted during the 1993 Midwest floods, which provided quick, effective coordinated response to flood situations, interagency levee and associated repair coordination teams shall be established as soon as possible after a flood event to review all proposals for repair and restoration of flood damaged levees and associated systems. These teams will include a representative of each involved Federal agency and appropriate State, Tribal, and local agencies. The Army Corps of Engineers will ensure that the teams are established and meet regularly to resolve issues.
- Using the process developed over the past few years, each proposal shall be made available to the interagency levee and associated repair coordination team for a target minimum of 24 hours prior to final agency action, so that the teams may review and comment. Agencies shall take team comments, as well as all applicable State and Federal laws and regulations, into consideration, and take appropriate action when making final project decisions.
- Agencies shall coordinate scientific activities and the development of information among other Federal, state, and local agencies in order to build a basis for improved floodplain management strategies and implementation of restoration schemes.
- Each agency shall, in evaluating applications for levee repair and associated restoration, follow priorities established in 1993 by considering, to the extent appropriate and practicable, nonstructural alternatives and design modifications that could:
 - reduce future flood damages to the applicant and adjacent upstream and downstream localities;
 - lower long-term cost to the taxpayers;
 - improve environmental conditions, including water quality; and
 - assist public and private landowners in fulfilling their conservation objectives or obligations related to protected species, wetland restoration, and riparian habitat protection.

It is noted, in particular, that the Water Resources Development Act of 1996

modifies one of the major Federal emergency flood control repair and restoration authorities to emphasize consideration of nonstructural alternatives. All Federal agencies shall make full use of such authorities to consider nonstructural alternatives to levee repair and rehabilitation. Such nonstructural alternatives may include the acquisition or “buyout” of properties in the floodplain, an alternative which was successfully implemented following the Midwest Floods of 1993 and has already shown reductions in the cost of damage in succeeding floods. This approach is consistent with the policy expressed in the Hazard Mitigation and Relocation Assistance Act of 1993.

- As consistent with existing authorities and Administration policies, agencies shall, when evaluating levee repair and associated restoration proposals, work to address flood damage reduction on a system-wide or watershed basis. They shall consider compatibility with existing local or regional floodplain management and ecosystem restoration plans. Where relevant, agencies shall ensure proposals are compatible with approved forest land and resource management plans. In addition, agencies may take advantage of opportunities to use their authorities, in cooperation with the other participating agencies, to conduct work supportive of the overall health of the watersheds in the upland areas draining into the streams and tributaries subject to flood restoration work.
- In evaluating applications for levee repair and associated rehabilitation, each agency shall follow the policies established by the Administration and consider, to the extent practicable, how the levee repair and associated rehabilitation may be modified or enhanced to achieve environmental protection and restoration. All Federal agencies shall make full use of their authorities in identifying and implementing modifications to levee repair and associated rehabilitation proposals to achieve enhanced environmental values, including those that would improve fish and wildlife habitat, species diversity, and water quality, and reduce risks of future flood damages.
- Agencies shall continue efforts to encourage State, Tribal, and local community involvement and assumption of responsibility for current flood response and future floodplain management. Specifically, agencies shall:
 - coordinate with State, Tribal, and local organizations whenever possible;
 - act in accordance with existing community floodplain management and hazard mitigation plans;
 - encourage development of such plans as part of flood response proposals;

- encourage States and Tribes to help take responsibility for non-Federal levees; and
- work with State and local agencies to coordinate scientific activities and the development of information to assist in response and restoration efforts.

Additionally, agencies may, consistent with existing authorities:

- institute State, Tribal, and local cost-sharing in recovery, response, and mitigation activities; and
 - make levee repair and associated restoration funds available to states for use in implementing alternative damage mitigation plans.
- In undertaking mitigation activities for Federal losses, agencies shall seek to comply rigorously with Executive Order 11988 by avoiding and or minimizing future floodplain damage through use of alternative floodplain management planning. A copy of E.O. 11988 is attached.
 - Continuing through August 1997, each agency shall report on a monthly basis through the appropriate Assistant Secretary level office to the Office of Management and Budget on the status of levee repair and associated restoration, including: applications received, comments received, actions taken, and dollars spent.

If you have any questions about this guidance, please contact T. J. Glauthier (Program Associate Director for Natural Resources, Energy, and Science) or Rick Mertens (Chief, Water and Power Branch) at OMB, or Tom Jensen (Associate Director for Natural Resources) at CEQ.

Attachment

Floodplain Management

Statement by the President Accompanying Executive Order 11988. May 24, 1977

The floodplains which adjoin the Nation's inland and coastal waters have long been recognized as having special values to our citizens. They have provided us with wildlife habitat, agricultural and forest products, stable ecosystems, and park and recreation areas. However, unwise use and development of our riverine, coastal, and other floodplains not only destroy many of the special qualities of these areas but pose a severe threat to human life, health, and property.

Since the adoption of a national flood control policy in 1936, the Federal Government has invested about \$10 billion in flood protection works. Despite substantial efforts by the Federal Government to reduce flood hazards and protect floodplains, annual losses from floods and adverse alteration of floodplains continue to increase.

The problem arises mainly from unwise land use practices. The Federal Government can be responsible for or can influence these practices in the construction of proj-

ects, in the management of its own properties, in the provision of financial or technical assistance including support of financial institutions, and in the uses for which its agencies issue licenses or permits. In addition to minimizing the danger to human and nonhuman communities living in floodplains, active floodplain management represents sound business practice by reducing the risk of flood damage to properties benefiting from Federal assistance.

Because unwise floodplain development can lead to the loss of human and other natural resources, it is simply a bad Federal investment and should be avoided. In order to avoid to the extent possible the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, I have issued an Executive order on floodplain management.

Floodplain Management

Executive Order 11988. May 24, 1977

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 *et seq.*), and the Flood Disaster Protection Act of 1973 (Public Law 93-234, 87 Stat. 975), in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, it is hereby ordered as follows:

SECTION 1. Each agency shall provide leadership and shall take action to reduce the risk of flood loss, to mini-

mize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

SEC. 2. In carrying out the activities described in Section 1 of this Order, each agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget requests reflect consideration of flood hazards and

floodplain management; and to prescribe procedures to implement the policies and requirements of this Order, as follows:

(a)(1) Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain—for major Federal actions significantly affecting the quality of the human environment, the evaluation required below will be included in any statement prepared under Section 102(2)(C) of the National Environmental Policy Act. This determination shall be made according to a Department of Housing and Urban Development (HUD) floodplain map or a more detailed map of an area, if available. If such maps are not available, the agency shall make a determination of the location of the floodplain based on the best available information. The Water Resources Council shall issue guidance on this information not later than October 1, 1977.

(2) If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in this Order requires siting in a floodplain, the agency shall, prior to taking action, (i) design or modify its action in order to minimize potential harm to or within the floodplain, consistent with regulations issued in accord with Section 2(d) of this Order, and (ii) prepare and circulate a notice containing an explanation of why the action is proposed to be located in the floodplain.

(3) For programs subject to the Office of Management and Budget Circular A-95, the agency shall send the notice, not to exceed three pages in length including a location map, to the state and areawide A-95 clearinghouses for the geographic areas affected. The notice shall include: (i) the reasons why the action is proposed to be located in a floodplain; (ii) a statement indicating whether the action conforms to applicable state or local floodplain protection standards and (iii) a list of the alternatives considered. Agencies shall endeavor to allow a brief comment period prior to taking any action.

(4) Each agency shall also provide opportunity for early public review of any plans or proposals for actions in floodplains, in accordance with Section 2(b) of Executive Order No. 11514, as amended, including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended.

(b) Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in a floodplain, whether the proposed action is in accord with this Order.

(c) Each agency shall take floodplain management

into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved. Agencies shall include adequate provision for the evaluation and consideration of flood hazards in the regulations and operating procedures for the licenses, permits, loan or grants-in-aid programs that they administer. Agencies shall also encourage and provide appropriate guidance to applicants to evaluate the effects of their proposals in floodplains prior to submitting applications for Federal licenses, permits, loans or grants.

(d) As allowed by law, each agency shall issue or amend existing regulations and procedures within one year to comply with this Order. These procedures shall incorporate the Unified National Program for Floodplain Management of the Water Resources Council, and shall explain the means that the agency will employ to pursue the nonhazardous use of riverine, coastal and other floodplains in connection with the activities under its authority. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order. Agencies shall prepare their procedures in consultation with the Water Resources Council, the Federal Insurance Administration, and the Council on Environmental Quality, and shall update such procedures as necessary.

SEC. 3. In addition to the requirements of Section 2, agencies with responsibilities for Federal real property and facilities shall take the following measures:

(a) The regulations and procedures established under Section 2(d) of this Order shall, at a minimum, require the construction of Federal structures and facilities to be in accordance with the standards and criteria and to be consistent with the intent of those promulgated under the National Flood Insurance Program. They shall deviate only to the extent that the standards of the Flood Insurance Program are demonstrably inappropriate for a given type of structure or facility.

(b) If, after compliance with the requirements of this Order, new construction of structures or facilities are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be applied to new construction or rehabilitation. To achieve flood protection, agencies shall, wherever practicable, elevate structures above the base flood level rather than filling in land.

(c) If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible agency shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of and knowledge about flood hazards.

(d) When property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the Federal agency shall (1) reference in the conveyance those uses that are restricted under

to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended.

SEC. 3. Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in wetlands, whether the proposed action is in accord with this Order.

SEC. 4. When Federally-owned wetlands or portions of wetlands are proposed for lease, easement, right-of-way or disposal to non-Federal public or private parties, the Federal agency shall (a) reference in the conveyance those uses that are restricted under identified Federal, State or local wetlands regulations; and (b) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successor, except where prohibited by law; or (c) withhold such properties from disposal.

SEC. 5. In carrying out the activities described in Section 1 of this Order, each agency shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:

(a) public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion;

(b) maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and

(c) other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

SEC. 6. As allowed by law, agencies shall issue or amend their existing procedures in order to comply with this Order. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order.

SEC. 7. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which

perform the activities described in Section 1 which are located in or affecting wetlands.

(b) The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of this Order.

(c) The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

SEC. 8. This Order does not apply to projects presently under construction, or to projects for which all of the funds have been appropriated through Fiscal Year 1977, or to projects and programs for which a draft or final environmental impact statement will be filed prior to October 1, 1977. The provisions of Section 2 of this Order shall be implemented by each agency not later than October 1, 1977.

SEC. 9. Nothing in this Order shall apply to assistance provided for emergency work, essential to save lives and protect property and public health and safety, performed pursuant to Section 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

SEC. 10. To the extent the provisions of Sections 2 and 5 of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decision-making, and action pursuant to the National Environmental Policy Act of 1969, as amended.

JIMMY CARTER

The White House,
May 24, 1977.