



The Western Coalition of Arid States

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WEBSITE/E-MAIL

WWW.WESTCAS.ORG
westcas@mindspring.com

Regulatory Affairs Division
Office of Chief Counsel
Federal Emergency Management Agency
8NE, 500 C Street SW
Washington, DC 20472-3100

Attention: Docket ID FEMA 2015-0006

Dear Mr. Wright and Members of the Mitigation Framework Leadership Group:

We are writing on behalf of the Western Coalition of Arid States [WESTCAS]; the Association of California Water Agencies [ACWA]; and the Texas Water Conservation Association [TWCA] to express our concerns over the draft Revised Guidelines for Implementing Executive Order 13690 and to request that your Agency suspend further action on the draft until a sufficient time has been allowed for informed public input by the numerous affected public and private stakeholders impacted by this Order. Changes of the magnitude you are proposing for policies that have been in existence since Executive Order 11988 was issued some 38 years ago should be implemented only after a very public and transparent process. The public comment period which ends May 6 does not meet this standard.

Our associations serve water-related constituencies in the Arid West. Many are facing challenges with regard to severe drought and rapid population growth. The Guidelines which you propose inject a large element of uncertainty and complexity which greatly adds to the problems our members are currently trying to address. We are especially concerned over the one size fits all approach of Executive Order 13690. Different areas of our nation are very different in terms of climate and topography. The Guidelines have the potential to increase the size of the flood plain in the areas served by our members and extend the reach of complex new Federal regulations into areas which rarely if ever are subject to flooding.

The Guidelines provide federal agencies with three options as the basis from which to determine "federal action" in a flood hazard area," including:

1. Using best available climate science.
2. Adding two to three feet of freeboard to the 100-year flood plain elevation.
3. Adopting a 500-year flood plain standard for protection.

The Voice of Water Quality in the Arid West

P. O. Box 77561 Washington, D. C. 20013-7561

770-424-8111 Fax: 770-424-9468



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We have a number of concerns with regard to the impact of these three options. This includes the apparent ability of the numerous Federal agencies charged with implementing the Guidance to choose whatever option they believe best meets their need in meeting their responsibilities. It is common for our members to work with several different Federal agencies with regard to permitting and construction issues. The prospect of these agencies choosing different options among the three standards that have been identified would add many new layers of confusion and complexity into this process.

We also have concerns with each of the three options that are identified in the Guidelines. For example, the first option is to use best available climate science but the Guidelines do not identify what is considered to be an accepted “climate based science” standard for determining a flood plain, particularly since areas like the Arid West differ markedly from many other regions. Another concern is the lack of comment with regard to costs and benefits. Any time a policy that has been in place since 1977 is the subject of huge proposed changes, this issue should be thoroughly discussed and vetted.

Options two and three to determine and implement Federal Action on the flood plain are equally problematic. In many cases, our membership provide and addition 2 or three or more of freeboard protection over the 100 year floodplain. But local engineering experience and expertise is frequently used to determine where this additional protection can best be implemented. The Guidelines would require this extra freeboard protection to be employed in all cases by Federal agencies choosing option 2 despite the fact that this might add little to flood protection while incurring a substantial increase in local costs. Option 3 which is flood protection to the 500-year flood level would be beyond the ability of government at any level to provide financing for the necessary infrastructure.

The agencies served by our associations provide flood and stormwater management services to our communities and regions. This involves a complex and ongoing process of planning, financing, and permitting complex projects. An expansion of the definition of what constitutes a Federal flood plain would complicate all three of these steps, requiring our members to have to apply the Federal permitting processes to a much greater area than is the case at present. Since our ability to finance projects is not unlimited, this will result in currently planned projects being delayed and future projects being curtailed. And this in turn could lead to loss of life and property when areas slated for flood protection and stormwater management are forced to cancel new projects. There should be a balance between protecting sensitive flood plains and providing the infrastructure that is necessary to protect life and property. But this balance cannot be found if the process for issuing the Guidance is rushed as it currently is.

In conclusion, it is important to note that the Federal agencies involved in this process will not release their implementation plans until 30 days after the final Guidelines are published. Without details on how agencies such as FEMA, the Army Corps of Engineers, USEPA will implement

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this new policy, it is impossible for stakeholders such as our three associations to offer the kind of informed comments that play such an important role whenever major new Federal policies are proposed. The public comment period which opened on February 5 of this year represents the start of what must be a process to inform the public with regard to such far-ranging new Guidance with regard to flood plains. We believe that this process has only begun for such a complex issue and we ask that you suspend further action until this process has been fully implemented.

Sincerely,



Ed Curley, President
Western Coalition of
Arid States



Tim Quinn, Executive Director
Association of California
Water Agencies



Leroy Goodson, General
Manager, Texas Water
Conservation Association

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