



June 26, 2009

CITY COMMISSION

NANCY J. HARNESS,
Mayor

JAMES R. BEHAN

DAVID D. CRASE

JOHN DOLL

REYNALDO R. MESA

Sec. Adrian Polansky
Kansas Department of Agriculture
109 SW 9th Street
Topeka, KS 66612

Re: Proposed DFIRM for Finney County

The City of Garden City, Finney County, and the Boards of Directors for Drainage District 1 and Drainage District 2 fundamentally disagree with the inclusion of the manmade stormwater drainage ways within the Special Flood Hazard Area of the most recently proposed Digital Flood Insurance Rate Map. The reasons for the disagreement are due to the following arguments:

- These manmade ditches, which have been in existence for fifty years, have never been mapped since the City and County first adopted floodplain maps and regulations neither in 1978, or in the subsequent map updates in 1987 and 1997. Therefore, inclusion of the ditches is not consistent with the application of laws regarding floodplain management as they have been enforced in the past.
- There was failure at the State and Federal level to coordinate and consult with local long range plans for responsible planned growth and extension of public infrastructure.
- The economic impact on those households and businesses proposed to be included within the Special Flood Hazard Area is punitive and does not reflect the reality of the risk.
- The economic impact to the City and County of over 1,800 homes being identified as being within the flood plain is significant, and will cause an unnecessary drop in valuation and personal equity.

It is disappointing that the City and County had to commission a \$22,995 study to evaluate the methods and data used that were the basis for the inclusion of these new flood hazard areas. The study supports our position that these areas should not be included in the DFIRM, which we have stressed on our own for over a year. This study identifies flaws in the methods used in updating the maps. Most notably, it identifies the inadequacy of using an "approximate" study to map an urban stormwater system for the first time in lieu of a detailed study. In addition, the "approximate" study which was used is 1976 Base mapping, which is over thirty-three years old.

This study is one of many avenues that have been undertaken by the City and County to have these new floodplain areas removed from the new DFIRM

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mapping since being surprised with their inclusion in 2008. The only alternatives offered by State and Federal agencies are Letters of Map Amendment or Letters of Map Revision, which are insufficient consolation after being branded with the visual left by mistakenly adding such a vast area to the DFIRM.

If one assumes the premise that a community must enforce the requirements of the National Flood Insurance Program based on "best available data", then it is obvious from this study that the submitted Digital Flood Insurance Rate Map does not meet this requirement. Therefore we as a community are torn with the impossible decision of either (1) accepting the most recently submitted FIRM which dramatically changes the way the program has been applied in Finney County since 1978 and consequently placing a tremendous financial and logistical burden on the 1,800 property owners and our community, or (2) Not accepting the most recently submitted FIRM and forcing private insurance on any mortgages for these 1,800 properties in addition to the properties along the traditional floodplain associated with the Arkansas River, which will stifle future development in this region.

We ask for your help in providing relief from this situation, or at least, an opportunity to have our case heard by someone with authority to make a final determination. In our dealing's with FEMA, it has asserted that the contracting State Agency has the discretion to either accept or not accept these local factors in their recommendation...so they do not feel they have the authority to intervene. The Department of Agriculture says they are "just following FEMA's guidelines"... so they do not feel they have the authority to intervene.

According to the NFIP Floodplain Management Requirements (FEMA-480/February 2005) Unit 3, E states:

Detailed studies are expensive... so it is not cost effective to perform a detailed study in watersheds where there is little or no development and none is anticipated, such as in rural areas.

Therefore, some NFIP maps show floodplains that were mapped using approximate study methods. Flood data and floodplain information from a variety of sources – such as soils mapping, actual high water profiles, aerial photographs of previous floods, and topographical maps – were used to overlay the approximate outline of the base floodplain for specific stream reaches on available community maps, usually U.S. Geological Survey topographic quadrangle maps.

In addition, many flooding sources have been studied by other Federal, State, or local agencies. Some of these studies do not meet the NFIP standards for a FIS, but often contain valuable flood hazard information, which may be incorporated into the NFIP maps as approximate studies. Those types of studies typically cover developed or developing areas. They often contain flood elevation profiles that can be used as "best available data" for floodplain management purposes.

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It is our opinion that based on the FEMA regulations above that two solutions deserve further consideration. First, Garden City is urban as it relates to stormwater. We are a developed full service City of 30,000 people and serve as the urban hub of southwest Kansas. Our community deserves better than an "approximation." Second, every administrative interpretation prior to this has taken into consideration the original plans for the drainage ditches and 50+ years of management and maintenance of those ditches. Upon review of those local factors, no prior administration has considered it appropriate or necessary to include the drainage ditches based on FIS standards of the NFIP.

Based on our research into the Code of Federal Regulations (CFR) it appears that authority as the State Coordinating Agency to give information to FEMA or correct what has been submitted to FEMA does exist. We refer you to CFR "Title 44: Emergency Management and Assistance, Part 60, 60.25 Designation, duties, and responsibilities of State Coordinating Agencies" items (b), subsections (6), (7) and (10). These sections outline the authority and responsibility of the State Coordinating Agency in this case the Kansas Department of Agriculture. Item (6) states: Assist in the delineation of riverine and coastal flood-prone areas, whenever possible, and provide all relevant technical information to the Federal Insurance Administrator; Item (7) states: Recommend priorities for Federal flood plain management activities in relation to the needs of county and municipal localities within the state; Item (10) states: Assure coordination and consistency of flood plain management activities with other State, areawide, and local planning and enforcement agencies;

In essence the Department of Agriculture may not have provided all relevant technical information to FEMA for their consideration regarding the recently added "new" riverine areas (i.e. the ditches of Drainage District 1 and 2). Drainage District 1 and 2 are part of Garden City's urban drainage system as well as the county's rural drainage system and have not been addressed as such. Hence, no CFR prevents the State Coordinating Agency from providing all relevant technical information to FEMA. This "new" addition inadvertently submitted by the State adding Drainage District 1 and 2 is not consistent with the flood plain management activities in relation to Finney County and Garden City which have been actively managed, planned and enforced for over 50+ years and over 30 years in the federal flood management system as shown by the three previous Flood Insurance Rate Map revisions performed by the State and FEMA. We have a working and operational history of the actual performance of these drainage systems since their construction in 1953. There has never been any documented flooding associated with these ditches. Local evidence has yet to be considered even though it is clearly the role of the State Coordinating Agency to do so. No CFR prevents the State Coordinating Agency or Department of Agriculture from correcting or modifying information submitted for FEMA to take action upon.

Someone had the authority to reverse 30 years of federal floodplain management in Garden City and Finney County and include the stormwater ditches in the FIRM. This subsequently places our community and individual citizens at



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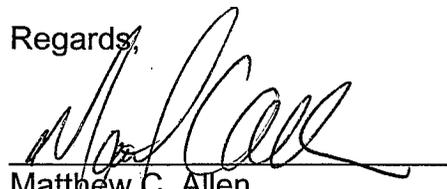
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Regards,


Matthew C. Allen,
City Manager


Peter H. Olson,
County Administrator

- cc: Garden City Commissioners
- Finney County Commissioners
- Drainage Districts 1 and 2
- Area Legislators
- Kansas Congressional Delegation
- Local Media
- "Knock-Out" Citizens Committee (c/o Duane West)

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