

Recent Policies of the Assistant Secretary of the Army and U.S. Army Corps of Engineers That Curtail or Discourage Local Investment in Flood Damage Reduction Measures

A growing coalition of states and local agencies (see attached list) is finding it increasingly difficult to construct urgently needed elements of flood damage reduction projects as a result of policies and procedures being implemented by the U.S. Army Corps of Engineers (USACE) and the Assistant Secretary of the Army for Civil Works (ASA). Without the modification of these policies, non-Federal partners will stop constructing some of these project elements, resulting in sustained high-levels of flood risk and the possibility of potentially-devastating floods and the corresponding costs of recovery. Some of the recent policies include:

- In May of 2011 the ASA announced that she will no longer be granting Section 104 credit requests for locally-constructed projects, stranding hundreds of million of dollars of local and state investments in flood damage reduction projects.
- In June of 2010 USACE decided to eliminate the use of an adopted regulation (33 C.F.R. Section 208.10) in favor of relying on “guidance” for the implementation of 33 U.S.C. Section 408. This action, in combination with ever-more restrictive implementation, has led to many counter-productive decisions including the following:
 - USACE Districts requiring that sponsors present 100% plans and specifications before a decision is made whether a modification will require Headquarters review and before any review can be processed.
 - The possibility that restoring a levee to its design level of protection requires additional review, including review at Division and Headquarters.
 - Delayed approvals due to unnecessary levels of NEPA review, and USACE warning that it will be hesitant to approve any further 408 requests for projects in California’s 450 mile long Central Valley without a valley-wide programmatic EIS review despite all prior approvals having programmatic hydraulic analyses and this same standard not being applied to USACE’s projects.
- USACE’s rigid enforcement of standards for woody vegetation on and adjacent to levees, requiring non-Federal partners to prioritize vegetation removal (and associated mitigation) rather than remediation of higher flood-risk problems such as erosion and underseepage. This issue has begun to negatively affect non-Federal partner investments in Louisiana and California.
- USACE's application of provisions of the Water Resources Development Act of 2007, particularly Section 7000, et seq., so as to frustrate Congress's intent to allow flexibility in Louisiana's contribution to Federal hurricane protection, flood damage reduction, and coastal ecosystem restoration projects by performing work-in-kind (WIK). The statute evinces an intention to allow Louisiana to prioritize which projects would receive WIK, and to allow USACE to apply the corresponding credit to Louisiana's obligation to provide a cost-share on other projects. Unfortunately, USACE's implementation of the statute has begun to impair Louisiana's attempts to perform urgently needed work.

**Entities Concerned About Recent Policies of the
Assistant Secretary of the Army and U.S. Army Corps of Engineers
That Curtail or Discourage Local Investment in Flood Damage Reduction Measures**

(As of July 22, 2011)

Association of Levee Boards of Louisiana
California Central Valley Flood Control Association
California Department of Water Resources
Central Valley Flood Protection Board (California)
City of Dallas (Texas)
City of Des Moines (Iowa)
City of West Sacramento (California)
County of Orange (California)
Des Moines and Mississippi Levee District No. 1 (Missouri)
Fabius River Drainage District (Missouri)
Office of Louisiana Governor Bobby Jindal
Office of Coastal Protection and Restoration (Louisiana)
Monarch-Chesterfield Levee District (Missouri)
National Association of Flood and Stormwater Management Agencies
Sacramento Area Flood Control Agency (California)
Saint Genevieve County Levee District No. 3 (Missouri)
San Joaquin Area Flood Control Agency (California)
Sny Island Levee Drainage District (Illinois)
Southwestern Illinois Food Prevention District (Illinois)
Sutter Butte Flood Control Agency (California)
West Sacramento Area Flood Control Agency (California)
Yuba County Water Agency (California)