



January 26, 2022

The Honorable Deanne Criswell  
Administrator  
Federal Emergency Management Agency  
500 C Street, S.W.  
Washington, D.C. 20024

**Re: Request for Information on the National Flood Insurance Program's Floodplain Management Standards for Land Management and Use, and an Assessment of the Program's Impact on Threatened and Endangered Species and Their Habitats**

DOCKET ID: FEMA-2021-0024

Dear Administrator Criswell,

The Fort Bend Economic Development Council (FBEDC) of Fort Bend County, Texas, appreciates this opportunity to provide comments on the October 12, 2021, Federal Emergency Management Agency (FEMA) posting related to floodplain management requirements and protection of threatened and endangered species under the National Flood Insurance Program (NFIP). We urge that FEMA continue the practice of actively soliciting and considering public input on any potential NFIP floodplain management changes for local communities.

We understand that FEMA has been petitioned by advocacy groups seeking expansive new floodplain development standards and enhanced conservation of federally threatened and endangered species and critical habitat under the NFIP. We further understand that FEMA is not now obligated to take any additional action in response to the rulemaking petition request. For several reasons, including introduction of the Risk Rating 2.0 methodology that has given rise to concerns about flood insurance affordability, treatment of leveed areas, property values, local revenue impacts, and long-term NFIP participation, we are convinced that changed floodplain management standards are neither well-supported nor advisable at this time. While certain elements of Risk Rating 2.0 may help the nation to achieve greater levels of NFIP solvency, FEMA has been roundly criticized for not doing enough to inform policyholders and State and local governments about the long-term trajectory of future premiums, the underlying methodology used to compute risk, the means by which policyholders may challenge their new risk determination or premium levels or, more broadly, the expected long-term economic, social, and environmental impacts of the most significant NFIP rate-setting overhaul in the 50-year history of the program.

Until such time that the new risk rating methodology and its data underpinnings are fully disclosed to and understood by policyholders, NFIP participating communities and their floodplain managers, FEMA should not be seeking to revise the NFIP floodplain management requirements. There are important interrelationships between the risk determinations and setting

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of premiums under Risk Rating 2.0 and formulation of floodplain management standards for land management and use. FEMA proclaims in its April 1, 2021, Risk Rating 2.0 press release that the newly overhauled NFIP pricing methodology is intended to “communicate flood risk more clearly, so policyholders can make more informed decisions on the purchase of adequate insurance *and on mitigation actions to protect against the perils of flooding*” [emphasis added]. If FEMA were to transparently disclose the underlying data, configuration, and long-term outputs of Risk Rating 2.0 to assure the public that the new methodology is both reliable and fair, it stands to reason that Risk Rating 2.0 would help to optimize safer, economic floodplain occupancy. In this way, FEMA should be able to show how a reliable and fair Risk Rating 2.0 would lessen the need for increased regulation. Similarly, FEMA should be able to reveal how floodplain regulation contributes to lower NFIP premiums. Both Risk Rating 2.0 and the floodplain management Request for Information are presented absent this essential analysis of the underlying tradeoffs, thus rendering one or both fatally flawed public policy proposals. Local officials will be unable to identify or understand the implications of the contemplated floodplain management changes without a more complete understanding of Risk Rating 2.0.

Of particular concern to communities undergoing development or redevelopment are changes to the floodplain management requirements and the areas to which those will be applied as there may be significant impacts on current or future projects and for long-term land use or transportation planning. The current floodplain management requirements provide an adequate level of non-federal decision-making, allowing for State and local determination of what mitigation measures are most appropriate for a particular project or planning effort. Many of the concepts presented in FEMA’s Request for Information may have utility in some areas, but not others. It is vital that FEMA have an approach to floodplain management that allows for the many variations that exist between locales, including differences in the types of flood events that occur in those areas. Flood risk management demands a truly intergovernmental approach and cannot be effective using a one-size-fits-all approach.

Fort Bend County includes several NFIP participating communities and our overriding objective is to derive the intended and promised benefits to our community of economic flood protection by infrastructure that was built and is operated and maintained by local entities. Fort Bend County occupies 862 square miles of Gulf Coastal plain along the Brazos River on the southwest side of the Houston metropolitan area. Since the 1970s, Fort Bend has maintained one of the fastest county growth rates in the United States with a population that has almost tripled since 2000 to nearly 900,000 residents today.

### Fort Bend County Infrastructure

The Fort Bend County success story is built on our decades-long commitment to careful planning and high-quality infrastructure that increases our safety, improves our efficiency, protects property values, and minimizes our impact on the environment. We have never forgotten that public safety is the most important task of local government. Local planning and investment to reduce flooding and improve mobility are our priorities and the foundation underlying the health and welfare of our residents, affordable housing, and job creation.

### *Flood Protection Systems*

The sustainability of Fort Bend County is intertwined with its 19 major levee systems. Nearly 100 miles of levees in Fort Bend County help to protect more than 240,000 residents and \$27 billion worth of property value, of which more than \$21 billion are residential and commercial structures. Our levee systems are locally funded, and we have invested more than \$750 million to finance their design and construction. Levee districts in Fort Bend County have neither sought nor received any federal money to construct, operate, or maintain area levee systems or other related flood control works.

To be recognized by FEMA under the NFIP as providing protection from the 100-year flood on Flood Insurance Rate Maps, levee systems must meet minimum design, operation, and maintenance requirements. Levees and other related flood control works in Fort Bend County have been engineered and constructed to some of the highest national and local standards. In addition to being accredited by FEMA under the NFIP as protecting to the 100-year flood, Fort Bend County imposes additional requirements that generally enable area systems to achieve protection against the 250-year flood or greater, known locally as the “Fort Bend Foot.”

### *Floodplain Management*

As described by FEMA, the Community Rating System (CRS) is a voluntary program encouraging and recognizing community floodplain management practices that exceed the minimum land use and control requirements of the NFIP. Of the more than 22,000 NFIP participant communities in the NFIP approximately 1,500 are enrolled in the CRS, including the cities of Sugar Land and Missouri City, the two largest cities in Fort Bend County.

The CRS program is intended to incentivize the reduction of flood and erosion risk, as well as the adoption of more effective measures to protect natural and beneficial floodplain functions. FEMA awards points that assign a community’s “class” rating in the CRS on a scale of 1 to 10, with 1 being the highest ranking. Points are awarded for an array of improvements for how the community informs its public on flood risk; maps and regulates its floodplain; reduces possible flood damage; and provides warnings of and responds to flooding incidents.

The City of Sugar Land currently has a CRS class rating of 7, earning its NFIP policy holders in SFHAs a 15 percent discount on premiums (5 percent for non-SFHA). Recent flood prevention ordinance updates and additional floodplain management enhancements are expected to garner Sugar Land a 5 CRS class rating later this year, earning NFIP policyholders in SFHAs a 25 percent discount (10 percent for non-SFHA). Missouri City has attained a class 7 CRS rating and is working on projects like its new Flood Alert System to improve its CRS rating.

In a 2018 post-Hurricane Harvey report published by the Rice University Baker Institute for Public Policy, it was recommended that a neighboring county adopt the more stringent development regulations that are applied in Fort Bend County. The optimal Fort Bend approach demonstrates that implementation of economic flood control and floodplain management can serve as the tandem components of successful flood protection.

The geography and history of Fort Bend County make clear that our future is tied to successful flood damage reduction, maintaining affordable housing and property values, and access to affordable flood hazard insurance. These interdependent aims have guided decision making in Fort Bend County almost since inception of the NFIP. Our significant local investment in federally recognized flood projects and local adoption and enforcement of floodplain management standards that exceed minimum Federal requirements have given rise to more than \$27 billion in land and improvements across Fort Bend County. We are determined to protect our residents, industry, natural resources, and the value of investment here.

### FEMA RFI on Floodplain Management Standards

This Request for Information (RFI) initiates a multistep process by which FEMA will consider changing minimum development standards to facilitate improved local protection for people, property, and natural resources. In so doing, we urge that care be taken to avoid onerous and unsupported requirements for communities, industry, and development. Scrupulous adherence to the longstanding, bipartisan administrative requirements in place under the Administrative Procedure Act will help to ensure open and transparent consideration of consequential regulatory actions, including critical analyses to demonstrate the net costs, benefits, and regulatory and environmental impacts of any proposed actions. We further expect that this process will fully comply with existing law and administrative guidelines promulgated by OMB to protect the quality, objectivity, utility, and integrity of information disseminated and used by Federal agencies. Finally, we would note that petitions such as the one filed in this case are often used as a precursor for litigation. Federal agencies frequently engage in settlement agreements with litigators, with results that impact stakeholders (e.g., permittees, lessees, NFIP communities) whom the federal agency will not allow at the settlement table. If the petitioners in this case ultimately sue FEMA, we expect that the agency will solicit and carefully consider input from NFIP participating communities during any settlement process.

The following issues are of special interest and concern to us—

**(1) Redefining SFHA from 100-yr flood area to 500-year.**

Increasing requirements in the 0.2 percent annual chance (500-year) flood areas, or 0.1 percent annual chance (1,000-year) flood areas is likely to be counter-productive as there will likely be yet unidentified unintended consequences with associated costs to the public and NFIP communities. The regulated public and the participating communities called upon to enforce new requirements in those areas may view the changes as arbitrary rather than as effective measures to manage flood risk.

**(2) Expanding floodplain management requirements to include SFHA-adjacent areas.**

Absent new and clear direction from Congress, floodplain management beyond the SFHA is a decision that must be made at a non-federal level. FEMA should not seek to expand its floodplain management requirements beyond the SFHA determined using the 100-year base flood event for several reasons. Doing so will unfairly impose new requirements on SFHA adjacent levee protected areas, even though those properties may have significantly less flood risk than properties further removed from the flooding source. Further, FEMA should not identify new zones for leveed or SFHA adjacent areas

as that would not enhance flood risk reduction efforts. Flood risk in SFHA adjacent areas can be made known to communities through sharing better information from Risk Rating 2.0 rather than establishment of new zones that would be but the first step in federal overreach through expansion of jurisdiction.

**(3) Incorporating climate, sea rise, and other future conditions into floodplain management requirements.**

NFIP minimum floodplain management standards should be based on the current, not future projected, flood risk. To do the latter is the equivalent of basing real estate taxes on the future projected value of a property, which by law is not allowed. Flood hazard mapping must be based on existing conditions. If these conditions are changing, the maps should be updated frequently to reflect warranted changes.

Moreover, FEMA should consider that climate change modeling has been very dynamic during the last 10 years. There is the potential that the climate change models used at the beginning of FEMA's multiyear process to update flood maps may be obsolete by the time the revised FIRMs become effective. This would result in multiple challenges to maps and create an unsustainable regulatory framework for NFIP participating communities.

**(4) Integrating additional threatened/endangered (T&E) species considerations into floodplain management requirements.**

FEMA needs to consider and respect that Federal and State environmental regulatory processes are already in place to address T&E species and should consult participating communities on the NFIP's effect on floodplain development in their specific area. No two communities are the same. In some communities there is negligible nexus between the NFIP and impacts to T&E species. FEMA should solicit input from the affected NFIP communities during possible T&E litigation settlement negotiations and any development of T&E requirements for implementing the NFIP in those communities.

**(5) Changes to minimum NFIP development standards may negate CRS credits.**

CRS credits earned through local adoption and enforcement of the higher standards contained in the 2015 Edition of the International Building Code (IBC) and the American Society of Civil Engineers' Standard ASCE-24 for Flood Resistant Design and Construction should not be lost. Loss of these credits would jeopardize extensive local efforts to obtain improved CRS Class ratings, thus threatening CRS discounts on flood insurance for area property owners. We caution against any FEMA change to NFIP standards that would result in the loss of CRS credits and earned flood insurance discounts for our communities. If FEMA makes current incentivized requirements mandatory, then FEMA should allow CRS communities that have adopted voluntarily the higher requirements to keep the associated CRS credits in perpetuity. Any increase to NFIP requirements more than already included and available to States and communities through adoption of the 2015 IBC and ASCE-24 risks unintended adverse impacts to property owners and residents, especially those of low-to-moderate income and/or with special needs.

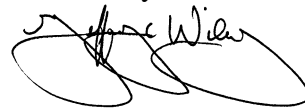
**(6) Broadscale "managed retreat" from flood vulnerability should be considered as a last resort policy approach when justified by transparent cost-benefit analysis.**

Very few, if any, regions in the United States are free from the potential of some form of major natural disaster that triggers eligibility for federal disaster assistance. Mass relocation of communities from flood-prone areas to different areas having alternative disaster risks may not be a viable or affordable option and likely would result in increasing the number of residents affected by alternative disaster types. Relocation may also increase the environmental and cultural impacts on those other areas. Instead, we should rely on proven approaches that incentivize and increase affordable flood protection not just for individual homes, but for entire communities and their critical infrastructure.

Additionally, FBEDC endorses the responses to the 18 questions contained in the Mississippi Valley Flood Control Association (MVFCA) response dated January 17, 2022.

Thank you for your recognition of the importance of these issues to our community, and for your consideration of the concerns raised in this letter and the comments herein endorsed.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey C. Wiley", written over a large, loopy flourish.

Jeffrey C. Wiley  
President/CEO