



Submitted by Email to: hq-leveesafety@usace.army.mil

June 30, 2023

The Honorable Michael L. Connor
Assistant Secretary of the Army (Civil Works)
108 Army Pentagon
Washington, D.C. 20310-0108

**RE: Comments on the “Development of the National Levee Safety Program” (Phase 2)
(Docket No. COE-2021-0007)**

Dear Mr. Secretary:

On behalf of the National Waterways Conference (NWC), and our partners the Mississippi Valley Flood Control Association (“MVFCA”), Missouri Levee and Drainage District Association (“MLDDA”), Fort Bend Flood Management Committee (“FBFMC”), Association of Levee Boards of Louisiana (“ALBL”), Floodplain Alliance for Insurance Reform (“FAIR”), Board of Mississippi Levee Commissioners (Mississippi Levee Board, or “MLB”), Board of Levee Commissioners for the Yazoo-Mississippi Delta (Yazoo-Mississippi Delta Levee District, or “YMDLD”), Saint Francis Levee District of Arkansas (“SFLD”), and Upper Mississippi, Illinois & Missouri Rivers Association (“UMIMRA”), we are providing comments on the U.S. Army Corps of Engineers’ (Corps) and the Federal Emergency Management Agency’s (FEMA) (collectively, the Agencies) notice of the proposed “Development of the National Levee Safety Program,” as published in the Federal Register on April 21, 2023. [88 Fed. Reg. 24,601 (Docket No. COE-2021-0007).] This notice announced the start of the Agencies’ “Phase 2” development efforts for the “National Levee Safety Program” (NLSP) initiative. We thank the Agencies for this opportunity to provide comments on Phase 2 of this effort.

A. ABOUT THE NATIONAL WATERWAYS CONFERENCE AND OUR PARTNERS.

NWC was established in 1960 and is dedicated to a greater understanding of the wider public benefits of our Nation’s water resources infrastructure. Our mission is to effect common sense policies and programs, recognizing the public value of our Nation’s water resources and their contribution to public safety, a competitive economy, national security, environmental quality, and energy conservation. NWC’s membership is diverse and includes the full spectrum of non-Federal water resources stakeholders, including flood control associations, levee boards, waterways

shippers and carriers, agricultural interests, industry and regional associations, hydropower producers, port authorities, shipyards, dredging contractors, regional water supply districts, engineering consultants, and state and local governments. Many of these members are non-Federal sponsors of Corps civil works projects, and own and maintain water resources infrastructure, including levees and other flood control systems, that are directly affected by the proposed development of the NLSP.

The MVFCA was created in 1922 to promote the consensus homeowner, flood protection, and inland navigation interests of the seven-state region participating in Mississippi River Valley Flood Control and Navigation projects, including the States of Illinois, Missouri, Kentucky, Tennessee, Arkansas, Mississippi, and Louisiana. Since 1980, MVFCA has expanded to include the watershed states from St. Paul, MN to the Gulf of Mexico. The Association involves over 150 entities, including levee boards, drainage districts, municipalities, port and harbor commissions, state agencies, nonprofits, and businesses from the Mississippi River Watershed, a contiguous region that occupies 41% of the land area of the United States.

The MLDDA was established in the immediate aftermath of the Great Flood of 1993, the worst such U.S. disaster since the Great Mississippi Flood of 1927. Our membership, representing both rural and urban leveed areas, includes levee and drainage districts from areas throughout the Midwest, farming operations, industrial and commercial businesses, and individuals. We support these and other entities by working closely with Federal, state, and local agencies, as well as quasi-public and private organizations, toward improvement of conditions along the Missouri River and its tributaries.

The FBFMC, a standing Committee of the Fort Bend Economic Development Council, represents public and private sector leaders that oversee a regional flood protection network of 19 major levee and drainage systems. Over \$36 billion in property investment and approximately 234,000 residents are protected by nearly 100 miles of levees and drainage infrastructure representing 27 percent of the total market value of Fort Bend County. Our accredited flood protection systems have been funded using only local dollars and more than \$750 million has been invested for systems planning, design, construction, and upkeep. Exemplary floodplain management practices by the two largest cities in Fort Bend County, Sugar Land and Missouri City, have been recognized by FEMA with class 6 and class 7 Community Rating Service ratings, respectively.

The ALBL is made up of the State of Louisiana's 23 individual levee boards, and we work closely with Federal and state agencies to contain and manage floodwaters along our major waterways, from the northernmost reaches of Louisiana to the waters of the Gulf of Mexico. More than half of our precious land is in a flood plain, and 41 percent of the continental U.S. drains into the

Mississippi River Basin. This creates a unique situation in our state, where flooding is a part of the history we share, and a part of the future we are working hard to control. Thanks to the constant diligence and monitoring by the state's 23 individual levee boards, rains very rarely have the disastrous results they once did for our state's citizens. "Without Flood Control, Nothing Else Matters."

The FAIR is a nonprofit, nonpartisan coalition started in 2009 to advocate for objective flood protection approaches using the best alternatives from multiple means to reduce catastrophic flooding in the United States. We are organized with local levee, drainage, and conservation districts to generate original analysis in furtherance of consensus, fact-based policy supporting public safety, economic development, and natural resource conservation.

The MLB has the constitutional responsibility to the State of Mississippi to operate and maintain a system of levees along the Mississippi River. They also have the legislative authority to participate with the Corps on various interior drainage projects, such as the Big Sunflower River and Tributaries Project, Upper Steele Bayou Project, and the Yazoo Backwater Project. Altogether, the MLB fulfills its maintenance responsibility for 212 miles of levees and 360 interior stream miles.

The mission of the YMDLD is to erect and maintain a system of levees to protect the people and property of the Delta from damages from high waters of the Mississippi River. It also directs the necessary activities to protect lives and property from the threat of flooding from interior streams and furnishes the local cooperation for various flood control projects of the Corps. Today, the District is responsible for maintenance of 98 miles of mainline Mississippi River levees, starting just south of Memphis to the Bolivar County line, 18 miles of backwater protection levees on the Yazoo River in Yazoo and Warren Counties, and 320 miles of interior rivers and streams.

The SFLD, established in 1893 by the Arkansas Legislature as the first improvement district in the state, is responsible for operating and maintaining 411 miles of levees and appurtenant infrastructure in northeast Arkansas. The District's system has passed Federal levee inspections for more than 60 consecutive years while reliably protecting residential areas, manufacturing, agriculture, and other infrastructure on more than two million acres of land across seven counties. The SFLD, with levees, pumping stations, backwater areas, and floodways, is a critical component of the Mississippi River and Tributaries Project that has prevented \$2.021 trillion in flood damages, including \$194.9 billion in 2020, to generate an extraordinary 116.8 to 1 return on investment.

The UMIMRA is a grassroots organization dedicated to improving flood protection and navigation in the Upper Mississippi River Valley. We represent levee and drainage districts, landowners, businesses, and communities affected by the Upper Mississippi River and its tributaries. The Upper Mississippi River watershed encompasses 118 million acres, which contains a total population of 13.4 million people. UMIMRA has 66 years of experience of representing those living, working, and investing in the Upper Mississippi River Basin.

Collectively, our organizations include more than 200 levee owner-operator members in more than 16 states, along with dozens of affiliated state, local, and private organizations.

Many of the NWC's and Partners' members have participated in Phase 2 of the NLSP initiative's stakeholder feedback process conducted in the Spring of 2023.

B. COMMENTS ON THE PROPOSED “DEVELOPMENT OF THE NATIONAL LEVEE SAFETY PROGRAM” (PHASE 2).

The United States has leveraged an intergovernmental approach to reduce catastrophic flooding in our Nation for more than a century. While not always perfect, this intergovernmental approach has been demonstrably successful in choosing the best options and tradeoffs to avoid flood damage. This approach has recognized the distinct intergovernmental roles and responsibilities that help define and maximize opportunities for success, including use of state and local police powers to address public safety and preservation of local decision-making and authorities to govern land use.

Because we embrace this tried-and-true partnership model and support the concept of a transparent, cooperative NLSP initiative focused on tangible, economic levee performance enhancement, there are several areas of concern that arose during our review of the Agencies' Phase 2 development efforts, including continuing concerns about the scope and intention of the initiative and the associated proposed guidelines and other “products” generated directly or indirectly from the program.

A significant concern, and much of the focus of these comments, is the uncertainty of whether and how the NLSP initiative, including the proposed levee safety guidelines and other products, will be applied, both within applicable Corps and FEMA programs and those of other agencies, including other Federal and state agencies. We are concerned that the levee safety guidelines and other products are following a pattern whereby sweeping application of the proposed levee safety guidelines and other related products -- which Congress contemplated would be “voluntary” when

enacting the levee safety initiative -- are being used in a sweeping, government-wide manner to impose regulatory mandates on non-Federal entities.

If the Agencies intend that their guidelines and other products be regulatory mandates and impose duties on stakeholders, contrary to Congressional intent, rather than be truly “voluntary,” then the Agencies need to seek clarification and authorization from Congress, and supplement the process for their implementation with formal rulemaking procedures, consistent with the Administrative Procedures Act (APA) and other requirements for regulatory planning, coordination, and review specified in Executive Order 12866 and related directives.

Additionally, to develop guidelines and other products that provide economic levee reliability and safety enhancements and are truly beneficial, the Agencies need to reach out to, and consult directly with, local levee owners/operators and the communities they help to protect while the Agencies are writing these products. Otherwise, these products will be created in a vacuum and will not be workable in the real world because they have not gained the acceptance and support of the impacted stakeholders. This, in turn, will set up winners and losers, in a constant push and pull, rather than a win-win situation where all sides are working toward a common goal of economic levee reliability and safety.

Further, many of our members have concerns that the Agencies are incorporating ambiguous “risk-informed decision-making” approaches in the proposed levee safety guidelines and other products. The Corps does not clearly and specifically articulate what “risk-informed decision-making” is, how it is to be applied, or under what statutory authorities the Corps is promoting or mandating such risk-informed provisions, nor has the Corps peer-reviewed, or solicited input from non-Federal sponsors and other stakeholders on, risk-informed decision-making approaches and definitions. Many of our members are concerned that a “risk-informed” approach would create a subjective, “top-down” Agency-driven decision-making process that would give the appearance of rigor and objectivity in the setting of levee safety policy, but be based on Federal agency risk preferences, rather than taking into account the risk preferences and needs, and financial capabilities, of impacted communities.

Decisions on what constitutes an acceptable level of risk must not be made by the Corps and FEMA on a top-down basis, alone in a vacuum, but rather, need to be made jointly and cooperatively, using objective and understandable criteria and approaches, in collaboration with the relevant non-Federal sponsors. The Agencies need to focus their efforts here on generating information that will be useful for decision-makers at all levels, Federal, state, and local, and not just on Federal agencies’ risk preferences to be imposed on non-Federal entities.

We offer the following comments, which the Corps needs to address as it proceeds with revising and finalizing the NLSP guidelines and other products of the initiative:

1) The NLSP Should Be Called the “National Levee Safety Initiative.”

Section 3303a of Title 33 of the U.S. Code provides the Corps with legislative authority for carrying out, in consultation with FEMA, a national “levee safety initiative,” which the Corps and FEMA have labeled the “National Levee Safety Program.” [See 33 USC §3303a(a).]

Separately, the Corps created and implemented a Corps-based program referred to as the “USACE Levee Safety Program,” to serve as an organizing framework and to improve consistency and coordination in how levee-related activities are implemented across the Corps organization. [See EC 1165-2-218 (22 April 2021), at Appendix B.]

Both programs have virtually identical names, which can cause confusion as to which program is being referred to.

Recommendations: *The Agencies’ current levee safety effort should be called the “National Levee Safety Initiative” (emphasis added), and not the “National Levee Safety Program,” to conform the Agencies’ current initiative with the statute and eliminate confusion with the Corps’ similarly labeled in-house “USACE Levee Safety Program.”*

2) The Agencies’ Intended Nature and Purpose of the Levee Safety Guidelines Is Unclear.

Section 3303a of Title 33 of the U.S. Code, in subsection (c)(1), directs the Corps, in consultation with FEMA and in coordination with State, regional, local, and tribal governments and organizations with expertise in levee safety, to “establish a set of voluntary . . . national levee safety guidelines.” [See 33 USC §3303a(c)(1) (emphasis added).] Subsection (c)(1) (1) clearly establishes that the levee safety guidelines are to be “voluntary.”

Yet subsection (c)(4) provides that “To the maximum extent practicable, all Federal agencies shall consider the levee safety guidelines in carrying out activities relating to the management of levees.”

It is concerning to many that the Agencies will likely end up interpreting the instructions in subsection (c)(4) as providing Federal agencies, including the Corps and FEMA, with authority to apply the levee safety guidelines (and all of the related “products” identified in Phase 2, such as a “levee management guide,” “levee operations and maintenance (O&M) manual,” “levee O&M manual template,” and “levee emergency action plan template,” all of which apparently are part of

the levee safety guidelines) throughout all of their levee safety-related activities and impose these guidelines as mandates for levee accreditation, conditions of permits and licenses that have linkages to levees (including permissions under 33 USC §408 or permits under Section 404 of the Clean Water Act), emergency rehabilitation “levee readiness” under the Public Law (PL) 84-99 program, or other longstanding agency programs. The ambiguity of these guidelines as “voluntary” versus their potential role as program requirements or regulatory conditions is a matter of significant concern.

It is noted that the tone of the Agencies’ fact sheets and other Phase 2 products pertaining to the levee safety guidelines suggests that the Agencies intend to apply the guidelines uniformly and essentially as requirements, despite being characterized as voluntary. These concerns are prompted by language such as the following from the proposed “levee management guide: “The Levee Management Guide will assist users with understanding and carrying out *responsibilities* for operating and maintaining a levee from the time it is constructed through its useful life.” [Emphasis added.] Such language suggests an intent to impose new “responsibilities” rather than just offer voluntary best management practices “guidelines.” [See also NLSP Fact Sheet entitled “National Levee Safety Guidelines, *Overview*” (March 2023) (e.g., The guidelines are “intended to apply to all phases of the life of a levee”; “intended to be used by a broad audience from multiple disciplines and sectors”; intended to serve as “best practices to help achieve nationwide consistency.”)] The current products provided in Phase 2 of the National Levee Safety Initiative do not resolve this ambiguity or adequately disclose the intent of the Agencies, but rather, further muddle it with such suggestive language.

In short, it is concerning that Federal agencies could potentially make sweeping application of these levee safety guidelines to impose mandates on non-Federal entities that Congress very likely did not contemplate when enacting Section 3033a.

Recommendations: *The Agencies should suspend development of these guidelines and seek clarification and authorization from Congress of Congressional intent as to whether the guidelines are to be voluntary, or whether their use is to be mandated and applied in a widespread manner to the activities of Federal agencies.*

The Agencies need to make it absolutely clear what their intent is as to how the guidelines are to be applied (i.e., voluntary or as mandates) through all Federal agency activities, including whether they are intended to be made conditions of Federal programs or permits. If the Agencies intend that their guidelines be mandates and impose specific and additional duties on stakeholders, rather than be truly “voluntary,” then the process for their implementation specified in Section 3303a must be supplemented with a formal rulemaking process, consistent with the

APA, that establishes the specific statutory authority for such mandates and duties imposed on non-Federal entities. This rulemaking process also must comply with the requirements for regulatory planning, coordination, and review specified in Executive Order 12866 and related directives, including an economic analysis of proposed rules and mandates specified in OMB circular A-4.

Imposing the proposed levee safety guidelines as conditions of programs such as Public Law 84-99, CFR 65.10, 33 USC 408 or Section 404 of the Clean Water Act would meet any economic significance threshold requirement for such analyses given that the scope of impact would extend to potentially billions of dollars of development across the Nation.

The current “products” that the Agencies have provided in Phase 2 of this National Levee Safety Initiative do not resolve this ambiguity, disclose adequately the Agencies’ intent, or satisfy rulemaking and regulatory review requirements under the APA or applicable executive orders.

It is the preference of our members that a National Levee Safety Initiative, and any guidelines developed under it, be voluntary and incentive-based for states, local governments, and regional flood control and levee districts, as intended by Congress.

3) There Needs to be Greater Clarity About the Intent of the NLSP Initiative, and How It Will Be Used—Both Within and Outside of the Agencies.

The Corps already has a well-established Levee Safety Program for Federal levees and levees that are in the Rehabilitation & Inspection Program under Public Law 84-99 (PL 84-99) and Rehabilitation Assistance for Non-Federal Flood Control Projects. Under PL 84-99, public levee sponsors enroll in the program with the understanding that levees need to meet and maintain certain eligibility requirements for the Corps to supplement local efforts in the repair of flood control projects (e.g., levees) that are damaged by a flood.

However, many of our members are uncertain whether and how the NLSP initiative, including the proposed levee safety guidelines and other products, will be applied, both within applicable Corps and FEMA programs and those of other agencies, including other Federal and state agencies, on top of existing requirements.

Many have expressed concerns, for example, whether the stated mission of the NLSP would meet the nation’s future needs. Others are concerned that existing programs have not done anything to improve the safety of levees and that the Corps already has an established program under

PL-84-99 and are skeptical about how the NLSP will improve levee safety and change the views upon flood risk.

Still others have expressed concerns that the Agencies' NLSP initiative will pull in non-PL 84-99 levees, which is problematic since those levee systems are primarily governed through other Federal and state agencies, and NLSP "recommendations" may conflict. Further, the NLSP has substantial economic and regulatory implications in other programs, potentially including, among others, levee accreditation programs, FEMA flood insurance, and modification or repair of existing levee systems under other authorities. Adding an additional layer of duplicative and potentially inconsistent NLSP requirements, on top of the other programs' requirements, would be confusing, costly, time-consuming, and inappropriate.

Recommendations: *The Agencies need to provide non-Federal stakeholders with greater clarity and certainty about the intent of the NLSP initiative, and address how the proposed guidelines and other products will be used, both within the Corps and FEMA, and outside in other Federal and non-Federal agencies' programs. As part of this, the Agencies also need to address the potential regulatory implications of the initiative and eliminate duplicative and potentially inconsistent provisions.*

4) Non-Federal Sponsors Need a Clear Understanding with the Agencies on How the Proposed Guidelines and Other NLSP Products Would Apply to and Impact Existing and New Levee Systems.

Many of our members are concerned with how the NLSP initiative and its proposed guidelines and other products would apply to and impact the multitude of levee systems around the Nation, which have been or are being funded with local, state, and Federal investments in our levee systems over many years. There also are concerns regarding how the initiative and its products would impact projects that are currently under design and construction. Substantial changes to the requirements applicable to the modification, repair, and potentially even some maintenance of existing levee systems may not be physically or financially feasible due to cost impacts or other constraints to meet the new requirements. The new guidelines and other products, as proposed and without implementation considerations, could significantly impact many local communities. In many cases, they could increase costs significantly without either a measured increase in benefits or an overall reduction of flood risk based on historical measured performance.

Recommendations: *The Corps needs to clarify whether and how the new NLSP initiative and its proposed guidelines and other products would apply to the modification, repair, or maintenance of certain existing levee systems. This includes clarifying how existing levee systems would be*

accommodated under the new initiative, including when the new guidelines and other products would become effective and to which levee systems they would apply. Further, the Corps needs to clarify how to handle projects that are under construction, recently completed or even recently designed (whether advanced by the Corps or others), so that local communities that have expended substantial resources to improve their levee systems are not adversely affected.

5) The Agencies Need to Clarify What Federal Laws Are Driving, and Which Programs Will Be Impacted by, the National Levee Safety Program Initiative.

Floodplain management and levee safety activities are driven by many laws and regulations and involve numerous governmental and private entities, at the Federal, state, and local levels. Yet, there is not a clear picture of what all those laws and regulations are, or which entities are to be involved. As the Agencies are moving forward with developing the NLSP initiative and associated guidelines, they so far have not provided a clear picture of all the Federal laws that are driving or will influence the NLSP and guidelines. And importantly, the Agencies also have not identified how the NLSP and its associated guidelines will influence or impact or be coordinated with other programs at the Federal, state, and local levels to ensure there are no conflicts with existing policies.

A number of our members have raised concerns about the lack of collaboration among agencies at all levels of government on the NLSP and other programs. There is a need for greater clarification of the intent and how the guidelines would be used within other agencies, and what conflicts this would cause with the PL 84-99 program, which would add another level of Corps regulation.

Recommendations: *The Agencies need to identify all the Federal laws that are driving or influencing the NLSP initiative, and describe how they may overlap each other, and how they will (and are supposed to) interface and work together under the levee safety program. For example, the Agencies should, considering the perspectives of the Corps, FEMA, other Federal agencies, describe how do, and should, the various Federal levee safety/NLSP, National Flood Insurance Program (NFIP), PL 84-99, Section 408, Corps levee engineer manual, and other initiatives, programs, guidance, and rules interface with each other, and whether there is and will be sufficient coordination and consistency.*

For example, how will the requirement of a levee owner's manual under the PL 84-99 program (which describes the [maintenance and upkeep](#) responsibilities that the Corps requires of a [non-Federal interest](#) for the [non-Federal interest](#) to receive Federal assistance under the PL 84-99 disaster assistance program) relate to the NLSP's guidelines and related products? Will the guidelines and the levee owner's manual be identical to, or consistent with, each other? Or will

the guidelines replace the levee owner's manual? Or will both be applied as separate but parallel requirements under the PL 84-99 program or the NLSP? Will a levee owner be eligible for disaster assistance under the PL 84-99 program based on consistency with the levee safety guidelines? Issues like these need to be addressed ahead of time.

There also needs to be greater clarity about where and how these various programs and their related work products will be applied and used, both within and outside of the Corps, FEMA, and the other relevant Federal agencies. Similarly, there needs to be greater clarity about where and how these various programs and their related work products will interrelate with non-Federal government entities. As part of this, the Agencies need to ensure consistency between program requirements, so non-Federal entities are not put in the untenable position of having to deal with inconsistent government requirements at both the Federal and non-Federal levels.

6) The Agencies Do Not Clearly and Specifically Articulate What “Risk-Informed Decision-Making” Is, with the Consequence of Potentially Creating an Unclear and Subjective Agencies-Driven Decision-Making Process.

The Agencies do not clearly and specifically articulate (either in the proposed levee safety guidelines products, or in other recent Agency rulemaking or guidance development initiatives) what “risk-informed decision-making” is, what risk assessments are, or the process how they are to be applied. The guidelines provide little in the way of objective criteria or standards for conducting “risk-informed decision-making” or determining what constitutes an adequate “risk-informed” decision. Importantly, the guidelines also do not make it clear who will be the ultimate arbiter in the decision-making process. Based on the current contents of the guidelines as summarized in the Agencies’ relevant fact sheets, it is uncertain whether these issues will be covered in sufficient detail. The Corps and FEMA have not clearly and adequately demonstrated how to integrate risk management considerations into levee safety.

The Agencies talk about “applying a scalable approach across different levee management decisions” in the levee safety guidelines, and identify “ten different types of activities that can be adjusted based on the results of a risk assessment.” [See Fact Sheet: *Risk and Scalability* (Mar. 2023).] It is unclear, however, how and ultimately by whom, such decisions would be made.

This approach has the potential of creating a program with broad mandatory risk management requirements governed by a set of ill-defined criteria. This raises concerns that the Agencies would give themselves broad latitude to subjectively establish new and elaborate risk management criteria, which may be increased or decreased, depending on the Agencies’ subjective evaluation and characterization of levee-related flood risk and required reliability, and of the levels of non-

Federal sponsors' preparedness and emergency action planning, emergency exercises and training, operation, maintenance, and inspection activities, and floodplain management planning and regulation, community engagement, and other factors.

Additionally, by creating a broad category of "risk-informed decision-making," without having well-defined criteria, or disclosing the data or other policies governing the Agencies' decision-making process, it sets up non-Federal sponsors for failure, especially those who have been incorporating higher levels of protection into their levees. If there is a difference of opinion on what risk-informed decision-making means between a levee district and the Agencies, or even with staff within an Agency's local office, this negates the progress the levee district has made to address specific risks in its region to keep its communities safe.

The net effect of this is that the Agencies then could unilaterally apply those elaborate risk assessment methods and subjective criteria to projects as a precondition of finding the emergency preparedness of non-Federal sponsors acceptable, regardless of affordability, net benefits, or societal willingness to pay. Decisions on what constitutes acceptable levels of risk must not be made by the Corps or FEMA alone in a vacuum, but rather, need to be made jointly, cooperatively, and transparently with the relevant non-Federal (local) sponsors who undertake projects and maintain infrastructure. That will not happen without well-defined criteria, and adequate disclosure of relevant data and other policies.

Two chapters of the proposed levee safety guidelines document (proposed Chapters 4 and 5) are supposed to deal with estimating and managing levee risk. It appears that these chapters are intended to provide guidance for the incorporation of risk-informed decision-making into ongoing and future levee projects, but there is no good indication of how these chapters are intended to address risk, or help parties reach an adequate "risk-informed" decision. Additionally, it is unclear what data or studies the Agencies are proposing to use to support the estimation and management of levee risk. Further, it is unclear whether or how these chapters will enable non-Federal entities to tailor the estimation and management of levee risk to meet their particular circumstances and needs, or whether the Agencies, instead, intend these chapters to lay out and impose a single, one-size-fits-all approach.

As a result, it appears that "risk-informed decision-making" is only a vague, general concept that could be aimed at giving the Corps and FEMA greater ability and discretion to subjectively impose varying, and greater, requirements on non-Federal entities on a case-by-case basis, without a statutory basis or input from impacted stakeholders.

Recommendations: *Because there are no objective or externally peer-reviewed criteria, standards, or Agency demonstrations of net beneficial use of “risk-informed decision-making” in this or other related flood control contexts, the Agencies need to scale back provisions that would utilize a “risk-informed” decision process until such a process has been properly vetted, justified, and explained, consistent with the requirements of the APA, Information Quality Act, and relevant regulatory planning and review executives orders and guidance.*

The Corps and FEMA need to better explain and demonstrate what risk-informed decision-making is, what it entails, and how they intend to integrate risk management considerations into levee safety. The Agencies also need to improve the process for assessing levee risk and provide guidance and training to relevant Corps and FEMA staff, non-Federal entities, and the general public on managing and assessing risk in the context of levee safety. If the Agencies are going to promote risk-informed decision-making, then they need to better explain the process, including through education, training, and other outreach. Education, training, and other outreach are very important but currently are woefully inadequate.

The Agencies need to better address issues such as conducting risk assessments; incorporating risk considerations into technical, planning, and policy decision-making; why, when, and how to conduct risk assessments; considering the implications of risk, risk tolerances and risk minimization; limitations of risk assessments; etc. The Corps’ Risk Management Center might be a means for developing and disseminating improved risk management information and training.

In addition, the Agencies need a robust engagement with non-Federal sponsors and other stakeholders on risk-informed decision-making approaches and definitions. To supplement the recent webinars, in-person meetings, and general solicitation of comments, the Agencies should take what they learned from the foregoing outreach sessions and written email input and conduct a focused stakeholder consultation process with non-Federal stakeholders (particularly with stakeholders that have knowledge of and an interest in levee safety and management, including small entities), to solicit advice and recommendations regarding ways to better define and address risk-informed decision-making approaches, criteria, and definitions, and other issues identified by stakeholders regarding the Agencies’ proposed implementation of the NLSP initiative.

Then the Agencies need to start articulating, clearly and specifically to stakeholders, what “risk-informed decision-making” is, how it is to be applied in the context of the NLSP initiative, as well as in other related programs (e.g., the Corps’ PL 84-99 program), and under what particular statutory authorities the Agencies are promoting or mandating “risk-informed decision-making.”

Decisions on what constitute acceptable levels of risk must not be made by the Corps and FEMA on a top-down basis, alone in a vacuum, but rather, need to be made jointly and cooperatively, using objective criteria and approaches, with the relevant non-Federal sponsors. The Agencies need to focus their efforts here on generating information that will be useful for decision-makers at all levels, Federal, state, and local, and not on Federal agency risk preferences to be imposed on non-Federal entities.

Otherwise, the definition of “risk-informed decision-making” will continue to be a moving target and in the eye of the beholder and will not truly be achievable.

7) The NLSP Initiative Will Likely Further Force Non-Federal Sponsors to Assume Duties Outside Their Legal Charters, Core Competencies, and Project Authorities, and Expose Them To Potential Liability.

The burden of assuring safe, reliable levees and related infrastructure falls jointly on non-Federal sponsors and the Corps. This is so because one or the other has designed, built, and performs operation and maintenance of the project itself, and not the entirety of the levee-protected floodplain. Most non-Federal project sponsors, notwithstanding their outsized contribution to improved life safety and flood damage reduction, navigation, and economic development in lowland areas, are not sovereign over the levee-protected areas. Local sponsors possess neither the resources nor the legal authority to administer prudent use and management of properties that are beyond their projects.

The important responsibility of floodplain risk management activities, such as floodplain land use planning, management, and regulation, building standards, emergency response planning and training, ordering evacuations, engaging communities, and other nonstructural hazard mitigation tasks and approaches, are within the purview of state or municipal governments, and not most levee sponsors. In most cases, those local regulatory agencies are not the same as the owner-operators of the flood control projects.

When executed as intended, these separate and distinct missions of flood control and floodplain risk management can serve as the tandem components of successful, economic flood protection. Non-Federal sponsors and the communities they help to protect can benefit from increased cooperation with the Corps and FEMA, but that will happen only if agency roles, responsibilities, and requirements are clear, justified, and achievable.

There is concern, however, that the NLSP initiative and associated guidelines could play havoc with these distinct missions, responsibilities, and orderly progress by advancing new guidelines

that could soon become a new layer of requirements imposed on the non-Federal sponsors. In the face of dynamic flood risks attributable to our growing infrastructure gap and shifting demographic, development, and climatic forces, these proposals could have non-Federal sponsors divert their attention away from maintaining and enhancing vital infrastructure by imposing remote floodplain planning and emergency management duties from the guidelines, which are currently outside most local levee sponsors' legal charters, core competencies, and project authorities, on the non-Federal sponsors.

It is noted, for example, that the Agencies are proposing to get local levee sponsors involved with remote floodplain planning and management duties such as “Key principles of managing flood risk within communities and the floodplain” (*see* Fact Sheet, NLSG *Overview*, at Proposed Chapter 1); “Engaging Communities,” “Best practices to engage for specific purposes and audiences,” and “Process for developing an engagement plan” (*see id.*, at Proposed Chapter 3); “Reconnecting the Floodplain,” “Impacts of levee removal within the floodplain and watershed,” and “Benefits of floodplain restoration” (*see id.*, at Proposed Chapter 11); as well as “Consideration of underserved communities” and “Benefits of insurance for financial recovery” (*see id.*, at Proposed Chapter 12).

In addition, the Agencies are proposing, in the levee safety guidelines, to get local levee sponsors involved with emergency management duties such as “Managing Levee Emergencies,” “Developing emergency plans,” and “Stakeholder communication and engagement” (*see* Fact Sheet, NLSG *Overview*, at Proposed Chapter 10); as well as issuing “Warnings, alerts, and evacuation planning and execution,” “Public health and safety considerations,” and “Minimizing damages to property, reducing releases of pollution and maintaining services” (*see id.*, at Proposed Chapter 12).

Imposing these other planning and management activities on these non-Federal sponsors falls far outside the limited state authorities conferred on most of the special-purpose political subdivisions that own and operate levees and other flood control facilities. These activities also fall substantially outside the agreements that the local sponsors signed and the obligations that were envisioned within the specific Congressional project authorizations that apply.

As a result, the NLSP initiative and associated guidelines have the potential of placing unworkable burdens on non-Federal sponsors, both financially and legally. Complying with the many floodplain risk management and mitigation activities that appear to be contemplated for the guidelines would take money away from other more important responsibilities of sponsors, and would further undermine their gains and risk future success by muddling the rational division of resources, labor, and core competencies among intergovernmental authorities. Every dollar and

manhour spent by local sponsors on floodplain risk management and mitigation activities is a dollar and manhour not spent on improving project performance and preventing catastrophic project failure. With scarce resources, sponsors would not be able to afford to properly maintain and manage levees, since their budgets to do so would shrink with new requirements imposed on them.

Because non-Federal sponsors have limited state authority as political subdivisions, they may be prevented from implementing many of the floodplain risk management and mitigation activities that appear to be contemplated for the guidelines. Requiring non-Federal sponsors to perform emergency planning and management activities are outside most non-Federal sponsors' authority, and forcing non-Federal sponsors to do so could expose them to substantial liability.

We should instead be encouraging non-Federal project sponsors to work steadfastly with their Federal partners in diligent pursuit of the essential flood protection project gains that are achievable through economic design, construction, and maintenance improvements.

In short, there are concerns that many of the new duties contemplated for the guidelines could become requirements for non-Federal sponsors that go far beyond their state statutory authorities or areas of expertise. This would divert time, personnel, and money away from non-Federal sponsor roles in sustaining levees and other flood control facilities in readiness for the next flood, and could expose them to liability.

Recommendations: As already noted, the Agencies need to provide non-Federal stakeholders with greater clarity and certainty about the intent of the NLSP initiative, and address how the proposed guidelines and other products will be used, both within the Corps and FEMA, as well as outside in other Federal and non-Federal agencies' programs. The Agencies need to address the concern that many of the new duties that appear to be contemplated for the guidelines could become requirements imposed on non-Federal sponsors. For example, will the guidelines be (and remain) advisory, as contemplated by Congress? Or will the guidelines morph into a new layer of regulatory requirements, on top of other similar program responsibilities?

As part of this, the Agencies also need to address the potential regulatory implications of the initiative, including addressing the concern that the Agencies will potentially make application of the levee safety guidelines mandatory and impose new duties on non-Federal entities, even though they are not within their state statutory authorities or areas of expertise.

The Corps needs to reevaluate the new approaches being promoted in the guidelines and ensure that burdensome requirements will not be imposed on non-Federal sponsors, particularly those

that are outside of the legal charters, core competencies, and project authorities of the non-Federal sponsors.

8) The Data Populating the National Levee Database Has Varying Degrees of Accuracy and Thoroughness.

The current data populating the National Levee Database (NLD) represents widely varying levels of detail and accuracy. We recognize that it has been an extremely difficult task in compiling NLD data, but the reality is that the current data represents widely varying levels of detail and accuracy. Some levee systems have been analyzed in great detail while others only have basic data available. There is no indication that any of the NLD data have been subjected to a data quality review and validation under Office of Management and Budget guidelines implementing the Information Quality Act (also known as the “Data Quality Act”; Section 515 of Public Law 106-554; *see e.g.*, OMB Memorandum, “Improving Implementation of the Information Quality Act” (Apr. 24, 2019), available at <https://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-15.pdf>), or some similar, equivalent review.

We believe that, to help ensure that the data is used appropriately, there needs to be a way to better identify the source and the quality of the data and its level of detail. Incomplete and low quality data should not be given the same level of confidence and use as compared to higher quality data in Federal, state, and local decision-making.

This is particularly concerning for the Agencies, where the Corps is providing to FEMA, for FEMA’s use, the insufficiently validated data and methodological advice, and FEMA is apparently using, inappropriately, the NLD and the Corps’ levee safety risk assessments to set NFIP rates for individual property owners.

Risk Assessments are based on data of varying quality and detail, and are intended for different purposes, namely, to characterize the risk associated with a levee system as a whole. (It is based on a combination of hazards the system may experience, the expected performance of the system during a given hazard scenario, and the consequences should flooding occur.) The risk assessments were never intended to be used in the context of NFIP rate-setting, as the methodology which the Corps uses in performing the risk assessments is incongruent with the methodologies that should be used to set individual flood insurance rates.

Recommendations: *The Corps, as the NLD administrator, needs to ensure that data disseminated for use by other agencies, including FEMA, is of acceptable quality, objectivity, utility, and integrity. As part of this, the Corps should subject the technical data and methodology underlying*

the NLD to a rigorous validation and data quality review under the Information Quality Act or a similar, equivalent review.

The NLD should also be informed by the local maintaining agencies. As these local agencies conduct improvements to their facilities, these agencies should be able to submit updates and refinements to the NLD. This practice would provide for a collaborative and inclusive process and build confidence in the accuracy of the data.

FEMA also should ensure that it is using data that is of acceptable quality, objectivity, utility, and integrity, and appropriate for the intended use (such as for rate-setting), and not blindly utilize data and other information of unknown quality.

In conjunction with improving the quality of data in the NLD, the Corps and FEMA need to improve the process for assessing levee risk, and provide guidance and training to relevant Corps and FEMA staff, non-Federal entities, and the general public on managing and assessing risk in the context of the NLD, as well as more broadly. This should include addressing issues such as conducting risk assessments; incorporating risk considerations into technical, planning, and policy decision-making; why, when, and how we should conduct risk assessments; considering the implications of risk, risk tolerances and risk minimization; limitations of risk assessments; and the like. As noted earlier, the Corps' Risk Management Center might be a means for developing and disseminating such risk management information and training.

In addition, development of the NLSP guidelines and the NLD need to include a common approach for definition of non-levee features and how levee systems (reaches) are defined. Non-Levee Features (NLFs) such as railroad and roadway embankments are often functional parts of a levee system that do provide some level of flood flow confinement but are not consistently regulated the same by the Corps and FEMA. The Corps may or may not consider NLFs as part of a levee system, and FEMA may or may not address NLFs in the NFIP, accreditation and mitigation applications.

Importantly, it should be noted that these features are not owned by the local levee district. For example, if the NLF is a road, it is owned by the state or some other local government entity, and not the local levee owner/operator. And if it is part of a railway system, it is owned by the owner of the railway system, not the levee owner operator. This is relevant because if the Corps or FEMA makes a recommendation or insists that the levee owner/operator make specified changes to the road or railway, the local levee owner/operator legally cannot do so. As discussed in Comment #7, above, local levee sponsors must not be forced to assume duties outside their legal charters, core competencies, and project authorities.

Consistent/complementary and common approaches for developing and using the NLSP guidelines and NLD data need to be adequately defined at the Federal program level before data is applied and managed at the state level.

9) The National Levee Database’s Data Is Generally Not Reliable for Regulatory Purposes or Use by FEMA.

The NLD fact sheet offered as supplemental background information for this notice states that, “Although we understand more than ever about the location of the Nation’s levees and what is at stake behind them, we do not have a complete enough picture regarding their condition or expected performance during high water events.” [See Fact Sheet, “National Levee Database—Overview & New Public Interface” (March 2023).]

Our general understanding is that, while the Corps’ levee screening data included in the NLD might offer some broad, preliminary value to the Nation for advisory-level risk communication purposes, it is generally not reliable enough for making regulatory decisions or use by FEMA to calculate chargeable premiums under the NFIP. Because the quality of an output is determined by the quality of the input, unreliable data will result in unreliable decisions. (In other words, “garbage in, garbage out.”) It is irresponsible, and potentially reckless, for the Corps and FEMA to utilize bad or questionable data to make risk management or rate-setting decisions.

It is essential for the Corps to subject the technical data and methodology underlying the NLD to a rigorous validation and data quality review under the Information Quality Act or a similar, equivalent review, and for both the Corps and FEMA to take appropriate steps to ensure that the NLD data is not used inappropriately.

Only a relatively small percentage of the overall national levee portfolio has been analyzed in great detail, and a majority of the levees around the Nation only has basic data available. Another NLD fact sheet discusses the time consuming and expensive nature of detailed levee reviews and assessments, including the approach that the Corps will take to complete a levee review. [See Fact Sheet, “Review of Levees” (March 2023).] We believe that levee reviews should be performed for at least two important purposes: to sort out the “good” (reliable) data from the “bad” (unreliable) data; and to enhance/refine/fill the database with more complete, reliable data.

Recommendations: *The Agencies need to develop a better-defined process for correcting and incorporating new and updated data in the NLD. A mere “review” of data is not enough.*

Currently, there is a link on the NLD Website to request a change or correction to data. However, we are not aware of an existing publicly defined Corps process to vet the data correction requests, with timelines, for what happens to the request once it is made. Nor is there an opportunity to appeal final data decisions.

Additionally, the process needs to include a timeline for addressing correction requests, what input, signoffs, and approvals of the data from other agencies is sought and/or required, and follow-up discussion with the original submitter on what changes that will be made or what additional data is needed.

Moreover, as entries or changes are made in the NLD, we would suggest checking with the local maintaining agencies to see if they agree with the submitted data. Generally, local maintaining agencies should be the most trusted source of data for the NLD acting on behalf of the NLSN NLD Guidelines.

Furthermore, there should be a report made publicly available indicating how many change requests have been submitted, how many are still pending (with the date they were submitted), and how many have been completed. Reporting on incorporation of new and updated data entered into the NLD should be available at agreed-upon timeframes. And it should be noted in the database when and what data is revised.

An appeal process is especially important for properties in leveed areas since the new FEMA Risk Rating 2.0 methodology does not have an appeals process for NFIP Risk Rating 2.0 or premium calculation. We are concerned about FEMA's use of the preliminary levee screening data, without such an appeals process. If FEMA is utilizing unreliable or incorrect levee risk rating information, then property owners will not be paying accurate chargeable premiums, nor will they understand the accurate flood risk faced by their individual property. It appears the only way to make an appeal is to make sure the data in the database is accurate in the first place.

10) The Levee Safety Guidelines Should Address the Management of Vegetation on Levees.

It is widely recognized that appropriate management of vegetation is an important part of operating and maintaining levees. Nevertheless, it is unclear whether and at what level the proposed guidelines will address the management of vegetation on levees. We understand that the Corps is conducting vegetation management workshops that are aimed at the development of best practices associated with the management of vegetation on or near levees.

Recommendations: *The guidelines should address in detail the management of vegetation on levees, since this is an integral part of operating and maintaining levees and helping to ensure levee safety. Such provisions should be recommendations and should benefit from and reflect the findings and best practices learned from the Corps' vegetation management workshops.*

Vegetation management provisions should, among other things, recognize that the management of vegetation on levees is not a "one size fits all" proposition, but need to provide enough flexibility so that management decisions can be tailored to local circumstances, without compromising levee safety and leaving the opportunity for resource enhancement. Local circumstances might include consideration of natural factors (e.g., hydrologic factors, soil conditions, vegetation patterns and characteristics, environmental resources), regional differences, levee construction and performance history, institutional considerations (e.g., implementation challenges and conflicts between Federal agencies and between Federal and state laws), availability of funding resources, economic and environmental costs of removing or managing various types of vegetation, targeted levels of levee safety, etc. In general, if existing or planned vegetation is not detrimental to the safety, structural integrity, and functionality of a levee or hinder accessibility for maintenance, inspection, monitoring, and flood-fighting, then a levee sponsor should not be put through the unnecessary cost and time of complying with unnecessary new requirements.

Vegetation management provisions also should be made consistent between all Federal agency programs, including between Corps and FEMA disaster recovery programs, and provide flexibility to levee sponsors where they are subject to inconsistent (and maybe conflicting) state requirements.

11) The Corps Has Properly Withdrawn Its Notice of Solicitation of Applications for Stakeholder Representative Members of the National Committee on Levee Safety.

The Corps published a notice in the Federal Register on June 13, 2023, entitled "Withdrawal of Notice of Solicitation of Applications for Stakeholder Representative Members of the Committee on Levee Safety." The notice stated that the Corps "is notifying interested parties that it has withdrawn the notice to solicit applications to form the Committee on Levee Safety. The original notice was published in the Federal Register on January 21, 2022. Due to stakeholder feedback, the approach for the Committee on Levee Safety is being reconsidered."

We applaud the Corps' decision to withdraw the Notice of Solicitation because, as NWC and others previously commented to the Corps, the approach that the Corps was proposing for the Committee, including interference with the Committee's independent reporting duty as directed

by law, meant that the Committee would be changing its scope from advising Congress to that of advising the Corps and FEMA, which in turn meant that the Federal Advisory Committee Act (FACA) would need to apply. [See Federal Advisory Committee Act, PL 92-463, as amended, 5 U.S.C. Appendix.] However, under current law, the Committee is not intended or authorized to be an agency advisory committee for the Corps and FEMA.

Nevertheless, there is concern that the Corps may seek advice selectively and maybe even randomly from non-Federal entities in a manner that does not optimize beneficial input from important stakeholders that may be impacted by the guidelines. While the Agencies, during this Phase 2 development effort, are offering general stakeholder engagement opportunities, including some topic-specific Webinars and in-person meetings, there is concern that the Agencies have failed to specifically reach out to, and solicit advice and recommendations from, the most important stakeholders who stand to be subject to and benefit from, and fulfill implementation of, the levee guidelines—that is, local levee owners/operators.

It should be noted that, in reaching out to stakeholder groups, the Corps often supplements general stakeholder engagement opportunities, like those being utilized here with the NLSP guidelines, with informal outreach meetings scheduled with various special interest groups to impart information to, and solicit advice and receive input from, those groups, without agendas or meeting records of such meetings being published or otherwise specifically made available to the public. There is concern that, in some instances, such informal outreach meetings might be conducted inconsistent with FACA requirements.

While the statute authorizing the levee safety initiative specifies that public review and comment be applied to the development of the levee safety guidelines, the law does not provide an exemption from FACA for seeking selective advice and conducting public outreach in the form of committees, special interest groups, and the like. Courts have consistently found that seeking advice from outside the Federal Government must be conducted in accordance with FACA.

FACA is intended to provide open meetings (*see* 5 U.S.C. Appendix), and it is uncertain whether the Corps is conducting such outreach meetings with particular special interest groups in an open meeting manner. If the Corps (or FEMA) wants to solicit advice, then the Agency is supposed to use FACA. The review and comment requirements under this levee safety initiative do not exempt the Agencies from FACA if they try to solicit advice.

Recommendations: *The Corps and FEMA need to specifically reach out to, and solicit advice and recommendations from, local levee owners/operators, who stand to be subject to and benefit from, and fulfill implementation of, the levee guidelines aimed at economical levee reliability and safety*

enhancements. In conducting this outreach, or outreach to other special interest groups, the Corps and FEMA should ensure compliance with FACA rules by creating a FACA-compliant non-Federal stakeholder-led committee. Such committee for the NLSP guidelines should be comprised to a significant extent of local levee owner-operators who stand to be subject to and benefit from, and fulfill implementation of, voluntary levee guidelines.

12) The Corps Should Directly Engage Non-Federal Levee Stakeholder Representatives as Participants when Writing the Levee Safety Guidelines Products.

The Agencies' Phase 2 activities extol the virtues of the levee safety guidelines products' writing team for preparation of the levee safety guidelines. Yet the Agencies and their writing team preparing the guidelines products have made little effort to reach out to the most important entities in achieving levee safety – particularly the local levee owners and operators – in the development of these guidelines prior to the public comment period.

This is a serious oversight. Heavy reliance on contractors, with the hope of some supplemental public input, will not ensure the production of levee safety guidelines products that incorporate the practical knowledge and experience of real levee owners and operators in constructing, operating, repairing, and maintaining levees and other flood control structures.

This approach risks creating the impression that the levee safety guidelines and related products are being created for the benefit of those other than the communities who bear the risk and pay the price. This will not be workable in the real world because the guidelines will not have gained the acceptance and support of the impacted stakeholders. It also sets up a situation where there are winners and losers, in a constant push and pull, rather than a win-win situation where all sides are working toward a common goal of economic levee reliability and safety.

This, in turn, raises the question of whether the Agencies and non-Federal stakeholders share the same goal. On their website, the Agencies state that the goal is to reduce the impacts of flooding and improve community resilience in areas beyond levees. [See, e.g., NLSP Fact Sheet entitled *Purpose and Scope Overview* (March 2023).] We conceptually agree, but the devil is in the details. If non-Federal sponsors are asked to maintain these systems and invest significant dollars in them, which are paid by the local property owners, they have to be strategic and prudent in their investments. But there seems to be a disconnect between the actions of the Agencies with the NLSP and the needs of non-Federal sponsors and local communities because a meaningful, focused dialogue has not occurred before and during the writing of the guidelines. It

is paramount that non-Federal sponsors be involved in this process early on, because it gives them buy-in, instead of generating skepticism and concerns that the Agencies are setting up another set of Federal top-down mandates to be imposed on them.

Additionally, there are concerns that only small pieces (a couple of “template excerpts,” fact sheets, and only one of 12 chapters of the levee safety guide) are currently available for public review. This is inadequate for stakeholders to get a clear picture of what the NLSP guidelines are going to look like or what content they will contain. Further, it sends the wrong signal and makes it seem like there is something the Agencies are trying to hide, whether intended or not. It is concerning that, when the Agencies come out with their Phase 3 outreach products, the guideline products at that point are going to largely be a “done deal,” with only limited opportunity for real change.

Recommendations: *The Corps and FEMA should restart the preparation of the guidelines products to provide the Agencies the opportunity to reach out to and receive meaningful, substantive input from local levee owners and operators on the development and content of the guidelines, and how the guidelines would affect them. Local levee owners and operators should play an integral role in providing input to the Agencies on preparing the guideline and outreach products for Phase 3, including all of the 12 guidelines chapters.*

Local levee owners and operators should be consulted and collaborated with during the writing process, especially since many of these non-Federal sponsors are legal entities of the state which would cover them under Federalism rules which encourage Federal agencies to consult early and often with states, local governments, political subdivisions and tribes.

In addition, the Agencies should make all 12 of the guidelines chapters and other significant products available for public review in an additional interim step before a Phase 3 outreach effort.

Generally, the government should keep its own advisors and counsel when preparing guidelines that may govern requirements or outcomes through Federal, state, or local governments. This avoids even the appearance of self-service in the preparation of such guidelines.

We thank you again for the opportunity to provide comments on the proposed rule, and hope that the Agencies will address our comments as it proceeds with this NLSP guidelines development process. NWC and its partners look forward to continued involvement in the discussions about reasonable and appropriate levee safety measures and guidelines.

Comments of the National Waterways Conference

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For more information or questions, please contact Julie A. Ufner, President and CEO of the National Waterways Conference, at (202) 203-4795 or by email at julie@waterways.org.

We look forward to working with you further through the remainder of this process.

Sincerely,

National Waterways Conference

Mississippi Valley Flood Control Association

Missouri Levee and Drainage District Association

Flood Management Committee of the Fort Bend Economic Development Council

Association of Levee Boards of Louisiana

Floodplain Alliance for Insurance Reform

Board of Mississippi Levee Commissioners

Board of Levee Commissioners for the Yazoo-Mississippi Delta

Saint Francis Levee District of Arkansas

Upper Mississippi, Illinois & Missouri Rivers Association

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