



CALIFORNIA CENTRAL VALLEY
FLOOD CONTROL
ASSOCIATION

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November 2, 2016

David Gillings, Public Assistance Officer
Governor's Office of Emergency Services,
Public Safety Communications Office
3650 Schriever Avenue
Mather, CA 95655
DELIVERED VIA EMAIL: david.gillings@caloes.ca.gov

SUBJECT: Clarification of Delta Levee Eligibility for FEMA Public Assistance Program

Dear Mr. Gillings:

There currently appears to be a great deal of uncertainty regarding the eligibility of Delta levees for financial assistance from the Federal Emergency Management Agency (FEMA) Public Assistance Program. The CA Central Valley Flood Control Association (CCVFCA/Association) therefore requests the Governor's Office of Emergency Services (CalOES) seek written clarification from FEMA regarding the eligibility status of non-project levees in the Delta.

Established to promote the common interests of its membership in maintaining effective flood control systems for the protection of life, property, and the environment, CCVFCA has been actively involved in advancing and advocating for effective flood management throughout the Central Valley since 1926. Today, the Association represents more than 75 cities, counties, and local levee maintaining agencies (LMAs/RDs) with flood control responsibilities, including the non-project and State Plan of Flood Control project levee systems within the Sacramento-San Joaquin Delta.

The uncertainty of Delta levee eligibility is due to a recent decision by FEMA to terminate/rescind the "*Memorandum of Understanding Between the State of California Emergency Management Agency and the U.S. Department of Homeland Security's Federal Emergency Management Agency Regarding Criteria for Public Assistance Eligibility for Reclamation Districts in the Sacramento/San Joaquin Legal Delta.*" The MOU established minimum levee criteria for Delta non-project levees the State would need to obtain and maintain in order to remain eligible to receive FEMA disaster assistance funding for emergency flood fighting, debris removal, and permanent restoration and/or replacement of damaged levees.

In 1983, FEMA approved Amendment No. 1 to the MOU which established specific responsibilities and actions for FEMA, the State, and the affected Delta RDs, including obligation of the State to develop a Flood Hazard Mitigation Plan (FHMP) for the legal Delta.

Following disaster claims submitted by the State during the 1986 flood and a finding by FEMA that little progress had been made by the State in implementing the FHMP, Amendment No. 5 was approved to address issues regarding implementation, time frame for completion, and requirements for levee geometry that are contained in Attachment 1 of the MOU. Over the years, additional revisions and additions were made to the MOU in order to provide further clarification of Public Assistance eligibility for these Delta levees.

Our understanding is that FEMA did not provide any written documentation to the State to clarify the eligibility status of non-project levees in the Delta after terminating the MOU. This leaves both the State and local flood control agencies with a great deal of fiscal uncertainty if the Delta requires emergency assistance this winter.


As we enter the start of another flood season, the Association requests CalOES formally submit a letter to FEMA asking for an expedited response to the following questions:

1. Are any non-project levees in the Delta currently eligible to receive funding from the FEMA Public Assistance Program?
2. If the answer is “yes,” are all non-project levees still eligible or only some of them? If only some of the non-project levees are eligible, what is the criteria that FEMA is using to determine their eligibility? If the levee meets or exceeds the criteria contained in Section VI of the MOU is the levee currently eligible for FEMA disaster assistance? If the levee meets or exceeds the FEMA Flood Hazard Mitigation Plan for the Sacramento/San Joaquin Delta (HMP) mentioned in Section 1A of Amendment No. 5, is the levee currently eligible for FEMA disaster assistance?
3. If the answer to #1 above is “no,” why is the Delta not eligible? Further, what is the scope of the Delta’s ineligibility for FEMA Public Assistance? Is the Delta still eligible to receive flood fighting assistance from FEMA? Is the Delta still eligible for disaster grants for “critical services” such as communications and emergency medical care or power and water, including water provided by an irrigation organization or facility, sewer, or wastewater treatment? Is the Delta still eligible for debris removal assistance, or any other Public Assistance projects categories?
4. If the answer to #1 above is “no” and none of the Delta’s non-project levees are currently eligible for any type of FEMA Public Assistance, is FEMA willing to reinstate eligibility for disaster assistance if the State or others agree to new conditions and commitments? What are the specific conditions, levee criteria, and financial commitments FEMA would require of the State or others in order to have disaster assistance reinstated in the Delta? As you may be aware, the Delta Stewardship Council (DSC) is currently working on a Delta Levee Investment Strategy (DLIS) to prioritize the State’s investments in Delta levee maintenance and improvements, which would be

formally incorporated into the State's Delta Plan. This DLIS could be relevant to any necessary future standards the State could commit to for reinstatement of eligibility for FEMA disaster assistance.

Thank you for considering our request for clarification of FEMA disaster assistance eligibility in the Delta. Please call me if you have questions regarding this request.

Sincerely,



Melinda Terry,
Executive Director

Cc;

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