Congress of the United States
Washington, DC 20515

June 7, 2010

The Honorable Jo-Ellen Darcy
Assistant Secretary for Civil Works, Army
U.S. Army Corps of Engineers

Dear Ms. Darcy:

We write to request that the Army Corps of Engineers (Corps) expeditiously convene a roundtable meeting with our constituents regarding the policies and regulations concerning levee standards and certifications, and the conflicts those policies may encounter regarding other federal mandates and policies.

We appreciate your attendance at the Green River Valley stakeholders meeting on May 6th, as well as your commitment to convene a roundtable to discuss these important issues. As you heard from our constituents, existing and proposed policies and regulations have resulted in conflict between federal law and agency guidelines, which has caused a great deal of confusion for levee operators across Washington State.

You may be aware that at least three modern levees in the Green River Valley are currently not certified or are in danger of losing certification because of a lack of coordination between the Federal agencies involved in constructing and accrediting these levees. As an example, the Riverbend levee on the Green River was completed in 2008 to Corps standards, with vegetation, and has yet to be accredited by the Federal Emergency Management Agency (FEMA) because of confusion over an impending Corps policy change that will disallow vegetation on levees and end a variance the Seattle District has used to allow levee vegetation. Unfortunately, we are seeing similar situations occurring throughout Washington State.

FEMA, who must accredit a certified levy before it will modify its flood maps, has based its certification standards on Corps levee construction standards, which will soon include the proposed change to vegetation standards. These changing standards may result in levees being decertified and subsequently being shown as not providing any mitigation on FEMA's flood maps, resulting in increased insurance premiums for an entire community.

Additionally, as you know, several populations of salmon in Washington State are listed species under the Endangered Species Act (ESA). As a result of this listing, levee operators in the impacted Washington river basins must comply with the ESA, which in most cases means vegetation that provides shade to cool the water temperature must be planted on a levee. Levees required to be in compliance with the ESA could simultaneously be in conflict with proposed Corps vegetation standards if no variance is kept in place. This could also result in levees being decertified or not being accredited if the FEMA standards are not met.

It is critical that a roundtable occur without delay to address the conflicting standards and regulations in order to ensure that the levee operators can perform appropriate levee maintenance. Municipalities in several river basins across Washington State, including the Green River Valley, are caught in the middle of conflicting guidance from the many Federal agencies that have policies regarding levee regulation. This confusion may leave communities exposed to legal action or unnecessarily vulnerable to flooding. Without collaboration between all stakeholders involved, including all relevant Federal agencies, communities in Washington State will continue to face difficulties getting levees certified and accredited.

When the Corps committed to convening this roundtable during the May 6th meeting, Corps staff recommended that an initial meeting take place no later than July. We understand that in the past, similar roundtable processes have taken up to 18 months to find a comprehensive solution to conflicting levee policies.

In light of the communities in our state needing to certify their levees to ensure accurate FEMA mapping, currently being told they need to remove vegetation now to retain the certification of their levees, and the impending September date of effectiveness for the new Corps vegetation policy, we respectfully request that you initiate a roundtable process as soon as possible.

We look forward to hearing back from you on your proposed timeline to begin the roundtable process, and to working with you in the future to ensure the health and safety of our local levee systems.

Sincerely,

cc: The Honorable Craig Fugate, Administrator Federal Emergency Management
cc: The Honorable Jane Lubchenco, Administrator, National Oceanic and Atmospheric Administration
cc: The Honorable Rowan W. Gould, Acting Director, U.S. Fish and Wildlife Service