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Docket number COE-2010-0007

The Board of Commissioners of Benton County Diking District # 1, located in Washington State, again appreciates the opportunity to review and provide comments regarding the “Process for Requesting a Variance From Vegetation Standards for Levees and Floodwalls”. This Policy has the potential to involve substantial impacts to our District.

The document is quite lengthy and technical in nature. Our comments are based upon our best interpretation and understanding of what we reviewed.

The District recognizes the need for vegetation standards but recent changes to those standards specifically the 15 foot clear area is a substantial change from previous requirements. The District had received “Acceptable” rating on Corps inspection up until a few years ago when the Standards were changed. We now have received “Minimally Acceptable” for the last few years due primarily to vegetation issues which previously had been approved by the Corps. This despite spending thousands of dollars on vegetation removal and spraying. The situation we now find ourselves in is not due to a lack of maintenance but simply a change in the rules.

The proposed Variance Policy attempts to eliminate any responsibility the Corps has for acceptance of situations which now are considered substandard. Generally when new standards are implemented it is appropriate if not required to provide assistance to those responsible to comply. Such assistance is either in the form of technical or monetary support. We feel that this is certainly appropriate in the case. It appears as though the costs to submit a variance would be significant to our District, taking away funds used to perform the required levee maintenance. We see that the “USACE will fund the development of the letter of intent and variance request” in certain situations but doesn’t appear to benefit Districts such as ours. This assistance should be expanded to

cover any sponsor that meets certain criteria proving their inability to provide the requested information.

The 15 foot vegetation free zone along with the 8 foot setback extends well beyond the District's existing right of way. This leads to the question of whether or not the District can legally require residents to remove material from that area. We do not know if the term "subject to preexisting real estate interest" found in Section 9d is meant to deal with this situation. Clarification of this phrase and the impact of preexisting easements, right of ways etc needs to be included.

We are concerned that the 15 foot vegetation free zone on the river side could lead to erosion as the existing vegetation provides a buffer from river current. Native riparian vegetation also controls soil erosion from entering the salmon habitat.

While the process may speak to it we feel it is important to address the apparent conflict between these vegetation standards and those of other agencies such as the Federal wildlife requirements. The Yakima River is a salmon recovery basin so State and Federal laws and guidelines will be adversely affected. It should be directly stated that should the District be required to conform to these standards that they supersede any other State or Federal requirements.

The District recognizes the changes from the first draft which attempt to deal with some of the issues previously raised. We appreciate this effort but do not feel it goes far enough. The District is committed to provide and maintain the structural integrity and functionality of our levee; after all we live behind it.

**Craig E. Williamson, Commissioner
Tom Kay, Commissioner
Marty Davis, Commissioner
Benton County Diking District #1**

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