



April 23, 2010

Mr. Douglas J. Wade
U.S. Army Corps of Engineers
Attn: CECW-CE
441 G Street, NW
Washington, DC 20314-1000

REF.: COE-2010-0007; hard copy of letter sent via e-mail

Dear Mr. Wade:

The Middle Rio Grande Conservancy District (MRGCD) is a political subdivision of the State of New Mexico, which owns and maintains approximately fifty miles of certified/engineered levees affected by the guidelines of ETL 1110-2-571, "Landscape Planting & Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures". We are submitting comments in response to the proposed process for requesting a variance from vegetation standards for levees and floodwalls:

1. Federally authorized, funded, designed, and constructed levees should not require the local sponsor to obtain a vegetation variance if the U.S. Army Corps of Engineers (USACE) design allowed for woody vegetation on the levee or within the new levee standard 15 foot woody vegetation-free zone. The Middle Rio Grande Flood Control Project – Corrales Unit allowed woody vegetation within 3 feet of the levee.
2. The variance process does not appear to contain provisions for appeal to the USACE if a variance is not granted. Local Sponsors must be allowed to appeal a decision, particularly when protected and endangered species, levee integrity and public safety would potentially be impacted by the denial of a variance.
3. Are there any costs involved when submitting and reviewing a vegetation variance request? If a levee system is designed and constructed by the USACE, and the USACE allowed woody vegetation on the levee or within the 15 foot woody vegetation-free zone, the USACE could arguably be responsible for the costs associated with making a variance request.
4. If a vegetation variance is approved by the USACE, would the present levee certification process still apply? Will additional certifications be required?

P.O. Box 581

87103-0581

1931 Second St. SW

Albuquerque, NM

87102-4515

505-247-0234

Fax # 505-243-7308

5. If a USACE certified levee is approved a vegetation variance and is damaged as a result of flooding, will the USACE assist with repairs of the levee per PL84-99?
6. The vegetation variance request requires extensive environmental and engineering analyses, etc. that would create a financial hardship or make it impossible to apply for variances and is economically unjustifiable. Federal assistance would be required to cover the costs and/or required analyses. The proposed rule should be analyzed for its social and economic impacts to communities and entities with flood control responsibilities.

These are initial comments and we might submit more for your consideration. Thank you for the opportunity to comment on this process.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. K. Shah', with a long horizontal flourish extending to the right.

Subhas K. Shah, P.E.
CEO and Chief Engineer