

U.S. Department of Homeland Security
Region VIII
Denver Federal Center, Building 710
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Denver, CO 80225-0267



FEMA RECEIVED

OCT 20 2009

MAYOR'S OFFICE

October 13, 2009

The Honorable Alan Hanks
Mayor, City of Rapid City
300 Sixth Street
Rapid City, South Dakota 57701

Dear Mayor Hanks:

This is in regard to the St. Patrick Street Levee shown on the effective Flood Insurance Rate Map (FIRM) and in the effective Flood Insurance Study (FIS) report for the City of Rapid City, Pennington County, South Dakota, and on the attached Figure 1. As you may know, the Department of Homeland Security, Federal Emergency Management Agency (FEMA), is in the process of producing a countywide FIS report and Digital Flood Insurance Rate Map (DFIRM) for Pennington, South Dakota. This effort is being undertaken as part of FEMA's Flood Map Modernization (Map Mod) program.

As part of FEMA's effort to produce the DFIRM, it was determined that the flood hazard information presented on the effective FIRM and in the FIS report is based, in some areas, on flood protection provided by the St. Patrick Street Levee shown on the attached Figure 1. Based on the information available and on the mapping standards of the National Flood Insurance Program (NFIP) at the time that the FIS was performed, FEMA accredited the levee with providing protection from the flood that has a 1-percent-chance of being equaled or exceeded in any given year. The 1-percent-annual-chance flood also is referred to as the base flood.

For FEMA to continue to accredit the identified levee with providing protection from the base flood, the levee must meet the requirements of the Code of Federal Regulations, Title 44, Section 65.10 (44 CFR 65.10), entitled "Mapping of Areas Protected by Levee Systems" (copy enclosed). In accordance with 44 CFR 65.10(a), it is the responsibility of the community or other party seeking recognition of a levee system to provide the data defined and outlined within the regulation. Specifically, the design and construction data provided must be certified by a registered professional engineer or by a Federal agency with responsibility for levee design.

FEMA understands that it may take time to acquire and/or assemble the documentation necessary to fully comply with 44 CFR 65.10. Therefore, FEMA has incorporated a process into the aggressive schedule of Map Mod that, if needed, will provide you with additional time to submit all the necessary documentation. Initiation of this process can take place only if you, the levee owner, and a representative of each impacted community sign and return the enclosed agreement within 90 days of the date of this letter (before January 12, 2010). In addition, you must provide:

- o A copy of the adopted operation and maintenance plan for the levee; and
- o Records of levee maintenance and operation, as well as tests of the mechanized interior drainage systems, if applicable.

Completion and submittal of the agreement, as well as the operation and maintenance plan and records, will serve as an official request that FEMA label the levee as a Provisionally Accredited Levee (PAL) on the DFIRM and will serve as your agreement that, to the best of your knowledge, the levee meets the

requirements of 44 CFR 65.10. The completed package must be submitted before January 12, 2010, for the levee to receive the PAL designation. Please note that a levee that has maintenance deficiencies is not eligible for PAL consideration.

By endorsing the enclosed agreement, you agree to provide all the necessary documentation to comply with 44 CFR 65.10 before January 12, 2012. If you are unable to submit all the documentation necessary to meet the requirements of 44 CFR 65.10 before this date, FEMA will initiate a map revision to redesignate certain areas on the landward side of the levee as floodprone.

Levees will be labeled as PALs during the 24-month period to convey to map users that levee certification verification is underway. FEMA recommends that you, the levee owner, and the impacted communities implement outreach efforts to inform affected property owners that an assessment of the levee is underway. FEMA also encourages the purchase of flood insurance, even though coverage is not federally required for the areas landward of the levee.

If the documentation necessary to fully comply with 44 CFR 65.10, including an existing operation and maintenance plan and record of an on-site inspection by a registered professional engineer, is readily available, please submit the data to this office within 30 days. Upon receipt of your submittal, FEMA will review the data and determine whether the levee will continue to be accredited with providing protection from the base flood.

If the only grounds for the levee in question not currently meeting the 44 CFR 65.10 requirements or PAL requirements are maintenance issues, you must contact this office by letter to bring attention to the matter before the end of the 90-day period to submit the enclosed agreement. If you notify FEMA that the levee has known maintenance deficiencies, then a 1-year correction period will be provided to remedy these deficiencies. This 1-year correction period would begin on January 12, 2010, if you notify FEMA within 90 days of the date of this letter. During the 1-year correction period, FEMA will move forward with the current flood hazard study as if the areas landward of the levee are located in a Special Flood Hazard Area (SFHA), the area subject to inundation by the base flood. However, FEMA will delay issuance of the Letter of Final Determination (LFD) and effective DFIRM until the 1-year correction period has elapsed.

For FEMA to remove the SFHA landward of the levee, the following requirements must be met within the 1-year correction period:

- All the requirements contained in 44 CFR 65.10 or
- Submittal of the entire PAL application, including the following documentation:
 - o An agreement signed by the community and/or levee owner stating that the PAL designation is warranted because the levee meets the requirements of 44 CFR 65.10;
 - o A copy of the adopted operation and maintenance plan for the levee; and
 - o Records of levee maintenance and operation, as well as tests of the mechanized interior drainage systems, if applicable.

Once the 1-year correction period has expired, FEMA will assess any submitted data and determine whether any mapping revisions are necessary. If no data have been submitted within the 1-year correction period, or if the submitted data are determined inadequate, FEMA will issue the LFD and effective DFIRM to show the areas landward of the levee as located in an SFHA. However, if all of the requirements for 44 CFR 65.10 or the entire PAL application is submitted before the 1-year correction period has elapsed, then FEMA will show the levee on the newly effective DFIRM as accredited or provisionally accredited, as applicable, and remove the SFHA.

If you have additional questions regarding the specific submittal requirements, please contact Nancy Steinberger of my staff, either by telephone at (303) 235-4992 or by facsimile at (303) 235-4849.

We look forward to working with you and community officials to address this important matter. If there is anything we can do to facilitate the submittal process, please let us know.

Sincerely,



Jeanine D. Petterson
FEMA Region VIII Mitigation Division Director

Enclosures

cc: Robert Ellis, Rapid City Public Works Director
Steve Schelske, Rapid City Floodplain Administrator
Brenda Young, Chair, Pennington County Board of Commissioners
Dan Jannison, Pennington County Floodplain Administrator
Nicole Prince, State NFIP Coordinator
Karen Amrhein, State MMMS Coordinator
Nancy Steinberger, FEMA Region VIII
Sara Brush, FEMA Region VIII
Senator Johnson's Washington, DC, Office
Senator Thune's Washington, DC, Office
Representative Herseth Sandlin's, Washington, DC, Office

Letter of Agreement and Request for Provisionally Accredited Levee (PAL) Designation and Agreement to Provide Adequate Compliance With the Code of Federal Regulations, Title 44, Section 65.10 (44 CFR 65.10).

We, the undersigned, have received the letter from FEMA dated October 13, 2009, and the enclosed document entitled "Requirements of 44 CFR 65.10." We understand that the Federal Emergency Management Agency (FEMA) is in the process of providing an updated flood map, termed a Digital Flood Insurance Rate Map (DFIRM), for Pennington County, South Dakota, and that the area behind the levee known as the St. Patrick Street Levee (shown on Figure 1) will be remapped to reflect that the levee has been designated as a PAL.

To the best of our knowledge, the levee known as the St. Patrick Street Levee meets the requirements of 44 CFR 65.10 and has been maintained in accordance with an adopted operation and maintenance plan as evidenced by the attached plan and records of levee maintenance and operation, as well as tests of the mechanized interior drainage systems, if applicable. We hereby submit to FEMA, within 90 days (before January 12, 2010) our agreement to provide FEMA with necessary data and documentation to show that the levee known as the St. Patrick Street Levee complies with 44 CFR 65.10. We understand that this data and documentation will be required before January 12, 2012. This information will allow FEMA to move forward with the DFIRM for Pennington County, South Dakota. We fully understand that if complete data and documentation that show compliance with 44 CFR 65.10 are not provided within the designated timeframe of 24 months, FEMA will initiate a revision to the DFIRM to redesignate the area as Special Flood Hazard Area, the area subject to inundation by the base (1-percent-annual-chance) flood.

Levee Owner Representative _____ (signature)
 _____ (print)

Date: _____

Community CEO _____ (signature)
 _____ (print)

Date: _____

Other (if applicable) _____ (signature)
 _____ (print)

Date: _____

Attachments –
 Operation and Maintenance Plan and Records
 Test Records of Mechanized Interior Drainage System

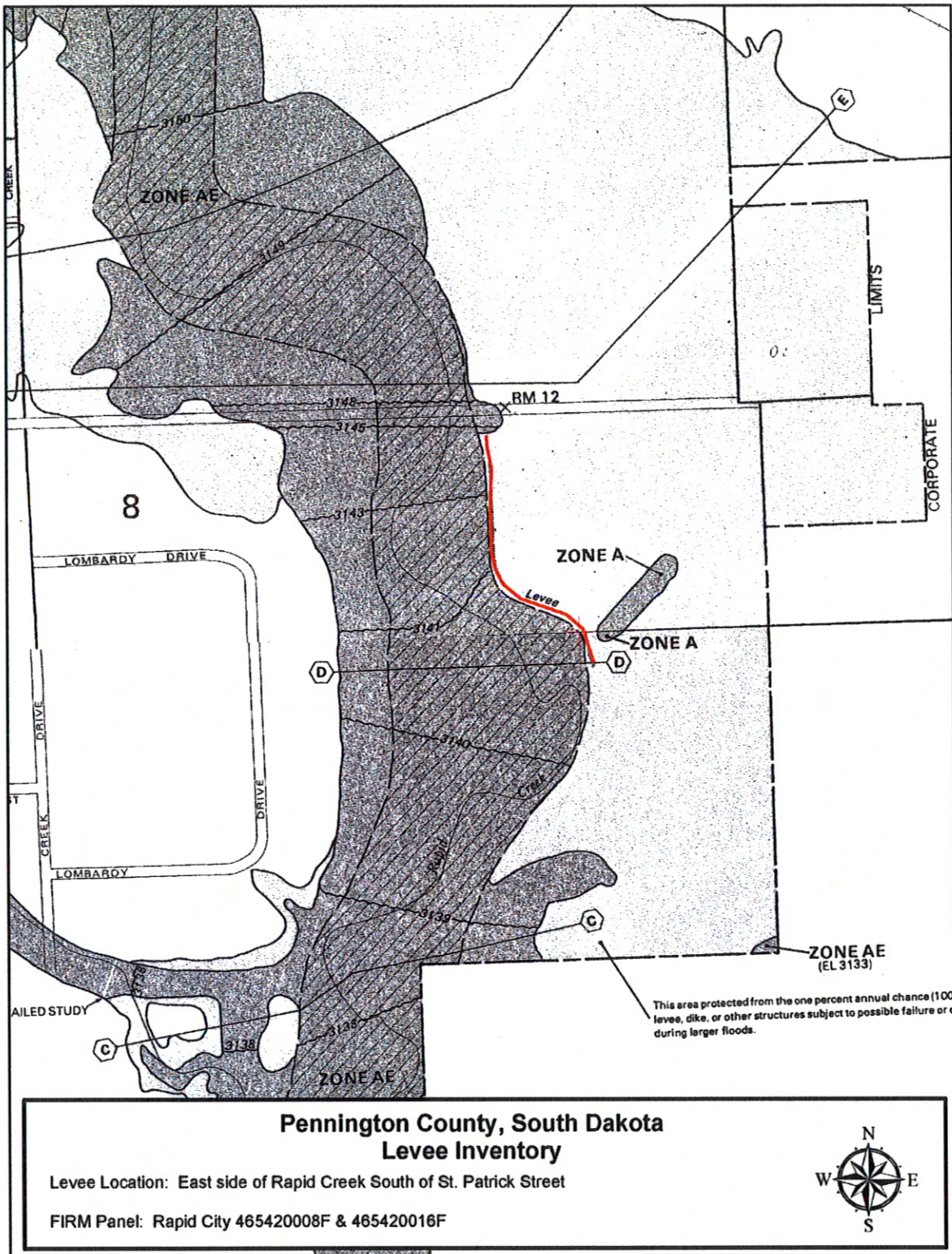


Figure 1: St. Patrick Street Levee