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United States Senate

March 04, 2010

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army (Civil Works)
US Army Corps of Engineers
44 G Street, NW
Washington, DC 20314

Dear Assistant Secretary Darcy:

I am writing to you regarding the role of the Army Corps of Engineers in certifying levees for inclusion in FEMA's Flood maps.

In 2003, the Federal Emergency Management Agency (FEMA) began a nationwide modernization of flood insurance rate maps. As part of the map modernization, FEMA has begun to verify the certification status of all levees accredited as providing protection from 100-year floods. Simultaneously, the Army Corps of Engineers (USACE) has largely ceased performing certifications of levees that it designed and built, but which are now operated by non-federal sponsors.

The combination of FEMA's new focus on certifications and a lack of USACE certifications has left small communities in Montana in an untenable position. Communities like Great Falls, Glendive, and Miles City may have several miles of levees protecting just a few hundred properties. Without the assistance of USACE, funding a comprehensive survey of the levee and surrounding hydrology for a certification is not possible for these small communities. However, without certification, the levees will be de-accredited by FEMA, and areas protected by the levee deemed Special Flood Hazard Areas. Montanans behind levees would face new and burdensome insurance requirements which would severely damage the local economy. FEMA proposes to require these studies to be re-done every ten years, promising a repeated and massive drain on local budgets.

While the ACOE has largely ceased performing certifications, it has not stopped entirely. Just this week, the Army Corps of Engineers completed a certification of the Pearl River levees in Mississippi, and came to an agreement to certify levees in Harrisburg, Pennsylvania. Meanwhile, levees in Montana risk de-accreditation due to lack of certification. Given this situation, I respectfully request answers to the following questions:

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EXHIBIT 6**

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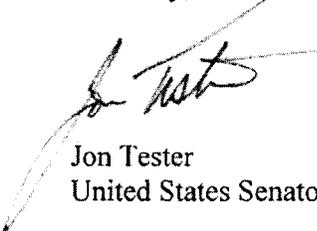
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- Under what circumstances does the Army Corps of Engineers continue to commit federal dollars to certify levees that are operated and maintained by non-federal sponsors, like those in Mississippi and Pennsylvania?
- In an August 15, 2006 memorandum, "Authority and Funding Guidance for USACE Levee Certification Activities" USACE confirmed that "at the request of the non-federal sponsor, USACE may perform levee certification determinations for the levee systems that are inspected under the Inspection of Completed Works (ICW) Program." Why has the Army Corps of Engineers largely ceased to perform these determinations, and what is the justification for this change in policy?
- What is the fiscal impact of this policy on non-federal sponsors of refusing certification on non-federal sponsors, and how has USACE attempted to mitigate this impact?
- Did USACE consider the different financial abilities of non-federal sponsors? What effort has USACE made to assist small, rural communities with levee certifications?
- How has USACE assisted non-federal sponsors in locating alternate engineering resources to fulfill certification requirements? What is the difference in cost between a certification performed by USACE and a certification by a private engineering firm?
- Has USACE coordinated levee certifications with its existing ICW inspections? How has USACE coordinated its certifications process with FEMA's map modification process?

Small, rural communities face particular difficulty in funding the studies required for certification of their levees. Given the hardship that accompanies de-accreditation, I ask that you work with me to find a solution for Montanans protected by these levees.

Sincerely,



Jon Tester
United States Senator