

VIRTUAL MEETING MINUTES

NATIONAL COMMITTEE ON LEVEE SAFETY (NCLS): National Levee Safety Act, Title IX of the Water Resources Development Act of 2007 (WRDA)

Exploring the Need for a National Levee Safety Program

16 December 2008
3:00 p.m. to 5:00 p.m. (EST)

Overview of Virtual Meeting: Exploring the Need for a National Levee Safety Program

On December 16, 2008, the National Committee on Levee Safety (NCLS) held a two-hour Webinar conference call with 241 members of the public. The objectives of the Webinar were to informally:

- *Introduce the National Levee Safety Committee*
- *Share preliminary Committee recommendations for a National Levee Safety Program*
- *Engage the public in a dialogue about the Committee's direction and the future of a National Levee Safety Program*

The informal Webinar call was advertised through the U.S. Army Corps of Engineers (USACE) public information and press offices and through existing networks from NCLS members. This was an open conference call that included background presentations on: 1) the evolution of levee policy in the United States; 2) the charge and work of the NCLS to date; and 3) the presentation of preliminary, draft recommendations. After the presentations, Webinar participants posted questions and comments using an online "chat" function to seek clarification and additional discussion by Committee members. The following is a list of questions (similar ones were grouped) and discussion that followed. After the question and answer section presented below is a list of questions and comments that were received but not addressed during the Webinar.

Questions and Answers

1. Regarding the definition of a levee, what about the role of highway embankments?

With regard to highway and railroad embankments, they would not be part of the program just by being in a floodplain. But if they were providing flood protection, even if not designed to do so, they would be part of the levee safety program. Their inclusion is due to their current use and function.

2. What level of inspection is anticipated?

The initial recommendations were to extend the national levee inventory database beyond just federal levees. The Committee believes that would best be done by the federal government – initial inspections and evaluations. At some point, after the initial inventory and inspections, there would be periodic inspections that states would have to ensure were completed. For high hazard levees, the inspections would probably have to be done on an annual basis. The state would not have to do the inspections, but would have to assure that they are being done.

3. Regarding the authority for levee regulation – in the case of a local sponsor, who is the ultimate authority, USACE or the state?

Currently, for many levees, the jurisdiction rests nowhere. Absent existing federal jurisdiction, a state program would develop jurisdiction. In being stood up, the state would have to demonstrate or acquire statutory authorities to complete the minimum functions. In the standards, we have certain jurisdictional definitions by which certain levees that are regulated under federal standards would be exempt from state jurisdiction. The jurisdiction and responsibility will be based on ownership.

4. Who will pay to bring levees up to standards?

What we have got in this report is an 80 or 90 percent solution. There is still a lot of heavy lifting to be done by the Committee after we have an act to stand up the program. In general, the owners for levees and those who benefit from their protection generally pay for their maintenance. However, we realize there are places where the risk is inordinately high – like in urban areas – where it serves the nation for the federal government to fund rehabilitation. There is too great a cost potential that comes from not rehabilitating these levees, as we saw with Katrina.

5. What is the role of state and local governments?

State and local governments have to be involved in the stand-up of a truly national inventory and set of inspections. To kick-start the state programs, they will have to be involved, as will the private sector. That will look something like the dam safety program, which was a collaboration between the public and private sector.

We do not even know where all the levees are. The first thing is to find out where they are located, who they protect, their reliability, and where are the highest risks. In conjunction with that, we recognize that there needs to be funding to rehab at least the highest hazard levees – considered in the recommended rehabilitation act. A levee safety program, which is about best management practices, and a national levee rehabilitation fund – the two are intended to work in tandem.

Who will be approving the design and construction of new levees?

It would be limited to the highest hazard areas. The fund is oriented toward giving money directly to states or regional or local entities to take the lead.

6. How will the Committee address issues such as the relationship between levee safety, O & M, and environmental compliance?

A conversation needs to take place, and collaboration needs to begin. We would like to make a space for that to happen and get the right group together so we can move forward on that.

7. Regarding the communication of flood risk – how would this be part of the program and what audiences will be addressed?

Our Committee has struggled with the interrelation between levee safety and flood risk. We are going to have a recommendation that there needs to be a national approach to flood risk management, where levee safety nests into it. We want to call that need out to Congress. We had two goals from Congress that told us to address this issue. Communication is a key part of having a safer public and safer infrastructure.

8. Have you considered sea level rise and the impact on levees?

We heard many recommendations from the Delaware River Basin Commission and the Mississippi River Commission which take a systems-based approach to safety. We will encourage this kind of approach. We will build incentives and disincentives to support those kinds of programs.

9. Who would be responsible for levees built by private individuals decades ago? What about communities that need assistance to restore old levees to their original levels of protection?

What started out as private levees out in the field somewhere have grown up over the years with homes and other infrastructure behind them. They are now urban levees. The real answer is to look at how we can contribute to buying down that risk. It will not be a solely structural solution.

As the environment has changed, there may need to be assistance for some communities. That is why the Committee came up with a separate piece of legislation, the rehabilitation act, to address that. The idea is to do it in a cost-sharing manner, because the federal government is not going to be able to bail everyone out. It took generations to get into this situation. Also, the amount of funds that will be able to be appropriated will get communities back to a level of protection, but we will also look at nonstructural elements that would help them get there. We cannot continue to build them safer and higher.

Other Questions and Comments from Audience Members Not Addressed During the Conference Call

- Any thought on having National Marine Fisheries Service (NMFS) or the National Fish and Wildlife Service join or advise the Committee?
- The risk communication focus appears to be focused on the local community - are there plans to ensure that the wider community has access? The key is that many stakeholders, such as financial institutions, do not know the significant exposure they have when multiple clients are exposed to one major event.
- This webcast is great baseline information, however, it is my hope that the Committee will hold/invite many of the professionals who operate levees in “Face to Face Forums” to help formulate meaningful programs that are reasonably easy to manage. My fear is that programs may be developed in a manor that does not accomplish the goals of the Committee.
- How can a nationwide program reflect the important regional differences that apply to issues of levee safety? For instance, the Pacific Northwest is now dealing with new NMFS guidance that draws strong contrast between the guidance that comes from different federal policy and law – specifically, PL84-99 levee maintenance requirements and Endangered Species Act obligations. How will the committee balance these competing objectives?
- When will the USACE start inspection program for non-federal levees? Will they involve local government? What bill needs to be passed?
- Recognizing the targeted task of this National Committee on Levee Safety, wouldn't the best recommendation be to establish a National Flood Risk Commission to focus various audiences on risk in the floodplain instead of risk tied to particular structures? The focus seems too narrow and potentially focuses the individual citizen on a structural solution to floodplain management.
- What avenues will exist to assess flood risk management at scale, beyond a project-by-project basis?
- What depth of information concerning levee deficiencies would be available on the national levee database? For example, would the database be specific that Levee X is sluffing riverside at river mile 5.6? This would be highly useful for determining remediation options, but could also have security issues (not always a good idea to point out to the public where the weak points of a levee are located).

- Present building controls are such that development is encouraged behind levees (outside the 100-year zone), which would result in all levees becoming ‘High Hazard.’ Will the hazard designation and inspection / operations & maintenance requirements address the need to upgrade before development rather than respond afterwards?
- It is my understanding that the Dutch use 1,000 years for their levee designs. This greatly reduces risks on society to build near floodways. Is this something that the Committee will look at?
- Are there plans to revise cost-sharing formulas for levee repairs under the P.L. 84-99 program so as to place more of the cost of post-flood rehabilitation upon the primary beneficiaries?
- What does the Committee think about land use regulation requirements in areas affected by levee failure?
- Some levees provide pathways for pedestrians and cyclists. Placards or signage placed on the levee informing passersby about what levees do, what they are made of, and what risks are tied to them would be an easily implemented educational tool to inform the public.