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Finance Director

RANDALL D. GRISELL
City Counselor

CITY ADMINISTRATIVE
CENTER
301 N. 8TH
P.O. BOX 499
GARDEN CITY, KS
67846-0499
620.276.1160
FAX 620.276.1169
www.garden-city.org

July 17, 2009

Honorable W. Craig Fugate, Administrator
Federal Emergency Management Agency
Office of the Administrator
500 C Street S.W.
Washington, D.C. 20472

Arthur L. Freeman, Acting Regional Administrator
FEMA Region VII
9221 Ward Parkway,
Suite 300
Kansas City, MO. 64114-3372

Re: Proposed DFIRM for Garden City and Finney County, Kansas

Dear Mr. Fugate and Mr. Freeman,

We have Mr. William R. Blanton's letter dated March 25, 2009 to the Hon. David Crase and the letter of the same date to Mr. Peter Olson. These letters purport to provide formal notification that FEMA has made a Final Flood Hazard Determination for Finney County, Kansas (Olson letter) and for the City of Garden City, Kansas (Crase letter). These final determinations are based on a Flood Insurance Study (FIS) and a revised Flood Insurance Rate Map (FIRM). We have attached copies of these letters for easy reference.

As you know, the City of Garden City, Finney County, and the Boards of Directors for Drainage District 1 and Drainage District 2 fundamentally disagree with the inclusion of the manmade storm water drainage ways within the Special Flood Hazard Area of the recently proposed FIRM.

We are especially concerned because the process used by FEMA has not afforded the communities or their citizens with procedural or due process rights. As such, it is imperative that FEMA set aside the FIS and the revised FIRM and restart the process using the procedures mandated by the National Flood Insurance Act (the "Act") and by FEMA regulations and guidance.

This letter attempts to provide some, but certainly not all of the concerns that the City and the County have with the process and the result that FEMA has reached.

- I. **FEMA has failed to follow statutory and regulatory requirements that allow for appeals by landowners and the communities. This failure renders the final flood hazard determination invalid.**

The landowners who would be included in the special hazard areas and risk premium zones under FEMA's proposed FIRM, as well as the communities themselves were entitled to appeal from a proposed FIS and FIRM. Neither these landowners nor the communities were provided with their constitutional, statutory, and regulatory due process

rights. For example, FEMA has failed to follow statutory and regulatory procedures that mandate publication in the Federal Register and in a prominent local newspaper.

For this and other reasons, we do not believe that the March 25, 2009 letters are effective to establish a deadline of September 25, 2009 by which the City and County must adopt the revised FIRM. Stated another way, because of procedural defects in FEMA's process, which violate the statute and FEMA's own regulations, the City and County remain in full compliance with the National Flood Insurance Program and will remain in compliance after September 25, 2009 even if the City and County do not approve the revised FIRM.

A. The Statutory Provisions

The Act deals specifically with flood elevation determinations and provides both property owners and communities with certain rights. Conversely, it imposes obligations on FEMA. 42 U.S.C. §§ 4101, 4102 and 4104.

The Act authorizes the Director to identify and publish information regarding flood plain areas with special flood hazards and then to establish and update flood-risk zone data "in all such areas." 42 U.S.C. § 4101(a). The Act goes on to require the Director to assess the need to revise and update "all floodplain areas and flood risk zones identified, delineated, or established under this section," at least once every 5 years. 42 U.S.C. § 4101(e).

The Act also requires the Director to "...work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies" to encourage the application and enforcement of established flood control measures. 42 U.S.C. § 4102(c).

With that background, the provisions of 42 U.S.C. § 4104 become important. That provision requires that the Director first propose "projected flood elevations for land use purposes with respect to any community ... in the Federal Register, by direct notification to the chief executive officer of the community, and by publication in a prominent local newspaper." 42 U.S.C. § 4104(a). In fact, the Director is statutorily required to "publish notification of flood elevation determinations in a prominent local newspaper at least twice during the ten-day period following notification to the local government." 42 U.S.C. § 4104(b).

To be effective, any FIS or FIRM that establishes new flood elevations must be in compliance with the statutory notice requirements and both property owners and communities are entitled to appeal a final decision by the Director.

Distinctions based on differences in the language used in §§ 4102 and 4104 are purely artificial. Section 4101 discusses "flood plain areas," "special flood hazards," and "flood-risk zones." Section 4104 discusses "projected flood elevations" but there is no indication in the statute that the differences have significance especially with regard to due process rights.

Section 4104(b) allows for appeals by any property owner "...who believes his property rights to be adversely affected by the Director's proposed determination..." Because the FIRM designates as Zone A large, highly developed areas within the City of Garden City,

as well as areas in Finney County that are actively developing, it is not the later establishment of specific data points within a "flood plain area" or a "special flood hazard area" that affect property values; instead it is the initial designation itself that affects those rights.

For example, a homeowner who has a mortgage on a home in an area that was not within a Zone A area when the property was purchased can and will be required to purchase flood insurance now, not after a later determination of some more specific elevation. Likewise the salability and the value of that person's home will be dramatically affected by the initial inclusion within that Zone.

Thus, any reading of 42 U.S.C. § 4104 as a grant of due process rights only after the Director establishes "Base Flood Elevations," a term that the FEMA does not even define in its regulations, emasculates the protection Congress afforded to homeowners and communities in that provision.

B. FEMA Regulations.

The requirements for an appeal are also clearly established in FEMA regulations. The regulations establish procedures for appeals from "flood elevation determinations." 44 C.F.R. § 67.3. A "flood elevation determination" is "a determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year." 44 C.F.R. § 59.1. Likewise, a "flood elevation study" is a "... determination of flood hazards and, if appropriate, **corresponding water surface elevations...**" *Id.* (Emphasis added.)

The fact is that no flood hazard mapping is possible without reference to elevation. Any designation of an area of special flood hazard necessarily fits within the definition of "flood elevation determination." Stated another way, because FEMA has designated new areas as "Zone A," it has determined that they fall within the base flood area. Since FEMA asserts they are in the base flood area, it has, *ipso facto*, made a "flood elevation determination" which in turn triggers appeal rights under the regulations. There is nothing in the regulations differentiating flood elevation determinations based on "approximate" data from those made on more detailed studies.

Here, FEMA has very clearly made a new flood elevation determination by designating new areas within our communities as flood hazard areas. The current FIS Report and FIRM establish completely new areas, and thus new "elevations" for a great deal of property within the City and the surrounding area. If this report becomes final, it will impact 2,000 existing structures, including 1,800 homes.

Any argument that the "Base Flood Elevations" have not changed for landowners in the drainage ditch areas is erroneous. Before FEMA's attempt to revise the FIRM in the Garden City area, numerous landowners were able to obtain mortgages and complete other financial transactions without concern about flood insurance requirements. If FEMA is ultimately successful in establishing a FIRM that includes some portion of those ditches, those same landowners will be put to the added expense associated with the program without due process.

There can be little doubt that new "Base Flood Elevations" were newly established in these areas and that these landowners, as well as the communities involved, are afforded due process rights, including statutory notice and an opportunity for a hearing.

Note also that Mr. Blanton's March 25, 2009 letters open with specific references to the appeal provisions found in Title 44, Part 67 of the Code of Federal Regulations that are entitled *Appeals from Proposed Flood Elevation Determinations*. FEMA cannot take the position that this Part is somehow inapplicable.

C. FEMA's own Guidance clearly states that Communities are entitled to appeal these determinations.

The agency clearly states that there is a formal appeals process available before a Letter of Final Determination is sent to a community.

See, e.g., http://www.fema.gov/plan/prevent/fhm/st_study.shtm

In FEMA's *Guidelines and Specifications for Flood Hazard Mapping Partners*, February, 2002, § 1.5.2.3, p. 1-95, FEMA states:

In the performance of a Flood Map Project, the Project Team may determine new BFEs for flooding sources for which BFEs had not been determined previously or the Project Team may determine that BFEs shown on the effective FIRM must be modified. When the Project Team determines new or modified BFEs are to be proposed for a community, **FEMA must, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93-234), provide the community with a 90-day appeal period.** (Emphasis added.)

Moreover, in § 1.1.4, p. 1-6 [April 2003] FEMA states:

Through an informal comment period following the issuance of the Preliminary copies and through formal public meetings, FEMA provides the affected communities, their citizens, and other interested parties the opportunity to comment on the FIRM and FIS report. If the informal public review requires making significant changes in base map or flood hazard information, these changes are incorporated and "Revised Preliminary" copies of the FIRM and FIS report are issued.

When required, FEMA initiates a statutory 90-day appeal period to provide community officials and citizens a formal opportunity to "appeal" **any new or modified 1-percent-annual-chance (100-year) flood elevations**, also referred to as Base Flood Elevations (BFEs), **or to "protest" other flood hazard data**. FEMA considers and evaluates all comments and data submitted during the 90-day appeal period and resolves all appeals and protests in consultation with the community. (Emphasis added.)

Finally, in a guidance document entitled *Appeals and Protests to National Flood Insurance Program Maps*, December 1993, p. 2-4,¹ FEMA Stated:

¹ Note that neither 42 U.S.C. 4104 nor 44 CFR Part 67 "Appeals from Proposed Flood Elevation Determinations" have been amended since this guidance was published.

In preparing initial FISs and FIRMs and in processing revised FISs and FIRMs for RFISs and Map Revisions, FEMA may determine new BFEs for flooding sources for which it has not previously determined BFEs or may revise previously determined BFEs shown on effective FIRMs. When it determines new or revised BFEs for a community, **FEMA must, by law, provide the community with a 90-day appeal period.** (Emphasis added.)

II. There has been a significant lack of coordination and cooperation as required by the National Flood Insurance Act and FEMA regulations.

We assert that coordination with the local jurisdictions as required by the National Flood Insurance Act was not accomplished. The Act requires consultation, coordination and cooperation with local units of government.

Specifically, FEMA itself, and acting through the Kansas Department of Agriculture (KDOA) pursuant to 44 C.F.R. 60.25, has failed to comply with 42 U.S.C. § 4107 and with 44 C.F.R. Part 66 both of which require communication, consultation, and cooperation with local communities. Section 4107 states:

In carrying out his responsibilities under the provisions of this title and the National Flood Insurance Act of 1968 which relate to notification to and identification of flood-prone areas and the application of criteria for land management and use, including criteria derived from data reflecting new developments that may indicate the desirability of modifying elevations based on previous flood studies, the Director shall establish procedures assuring adequate consultation with the appropriate elected officials of general purpose local governments, including but not limited to those local governments whose prior eligibility under the program has been suspended. Such consultation shall include, but not be limited to, fully informing local officials at the commencement of any flood elevation study or investigation undertaken by any agency on behalf of the Director concerning the nature and purpose of the study, **the areas involved**, the manner in which the study is to be undertaken, the general principles to be applied, and the use to be made of the data obtained. The Director shall encourage local officials to disseminate information concerning such study widely within the community, so that interested persons will have an opportunity to bring all relevant facts and technical data concerning the local flood hazard to the attention of the agency during the course of the study.

42 U.S.C. § 4107. (Emphasis added.) The Act also provides:

Coordination with States and communities. The Director shall, in consultation and coordination with States and communities take such actions as are appropriate to encourage and improve participation in the national flood insurance program of owners of properties, including owners of properties that are not located in areas having special flood hazards (the 100-year floodplain), but are located within flood prone areas.

42 U.S.C. § 4104c(m). See also 42 U.S.C. § 4102(c) which requires FEMA to:

...work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of such criteria and the adoption and enforcement of such measures.”

In addition, FEMA and KDOA have not requested the data and information it is required to obtain from local governments by 44 C.F.R. § 66.1(c)(1). Most troubling is the failure to request and consider information regarding the economic impact of the proposed revisions as required by that regulation. While we acknowledged that there has been some communication, the information provided by our communities has consisted of material that we have guessed might be helpful. At best, the requirements of 44 C.F.R. §§ 66.1(c)(1) & 66.5, have been treated as mere formalities without substantive consideration of much of the information that has been provided.

Furthermore, we refer you to FEMA regulations related to Emergency Management and Assistance, 44 C.F.R. 60.25(b)(10). This section outlines the authority and responsibility of the State Coordinating Agency, in this case the KDOA, and makes the following requirement:

Assure coordination and consistency of flood plain management activities with other State, areawide, and local planning and enforcement agencies;

While FEMA and KDOA have met with and communicated with both the City and County, our concerns and objections have fallen on deaf ears. The coordinating function is not met when the agencies simply goes through the motions.

In FEMA's *Guidelines and Specifications for Flood Hazard Mapping Partners*, February, 2002, § 1.3.4, "Outreach and Coordination," p. 1-52, FEMA states:

The ***overarching goal of outreach is to create a climate of understanding and ownership of the mapping process*** at the State and local levels. Well-planned outreach activities can reduce political stress, confrontation in the media, and public controversy, which can arise from lack of information, misunderstanding, or misinformation. These outreach activities also can assist FEMA and other members of the Project Team in responding to congressional inquiries.

By proactively reaching out to all key stakeholders as early in the Flood Map Project as possible, the maps can be used to their full potential. The likelihood of appeals also may be reduced or eliminated. (Emphasis added.)

This kind of coordination and cooperation has simply not taken place.

Garden City is the urban hub of southwest Kansas with a population nearing 30,000. It has experienced consistent, planned growth actively using a comprehensive plan and subdivision and zoning regulations since the 1960's. This planning has taken into consideration the placement of infrastructure for future development and has recognized the Special Flood Hazard Areas on previous FIRMs. Both Finney County and Garden

City planners have intentionally directed planned growth away from the River because of the flood hazard. Instead, planners have specifically directed growth toward the very areas that are now being included within the revised FIRM.

The addition of Drainage Districts 1 and 2 is not consistent with the past flood plain management activities in Finney County and Garden City which have been actively managing, planned, and enforced for over 30 years and through three FIRM revisions. These manmade ditches, which have been in existence for fifty years, have not been mapped since the City and County first adopted floodplain maps and regulations in 1978. And, we have a working and operational history of the actual performance of these drainage systems since their construction in 1953.

This kind of consistency in management and enforcement has yet to be considered even though it is clearly the role of the State Coordinating Agency and FEMA.

- There was failure at the State and Federal level to coordinate and consult with local long range plans for responsible planned growth and extension of public infrastructure.
- The economic impact to the City and County of over 1800 homes being identified as being within the flood plain is significant, and will cause an unnecessary drop in valuation and personal equity and does not reflect the reality of the risk.

Inclusion of the ditches is not consistent with the application of floodplain management as enforced by the State and FEMA in our community.

Moreover, FEMA and KDOA have failed to follow FEMA's own mandate that recognizes this very concern. The use of "approximate" data to map these highly developed and developing areas, in lieu of a detailed study in an urban area, is not an appropriate method under FEMA standards. In guidance regarding the *Use Of Flood Insurance Study (FIS) Data As Available Data*, FEMA has stated:

Due to the cost of developing detailed flood hazard data, not all floodplains can be studied using detailed methodologies. A primary factor FEMA uses in it's [sic] system for prioritizing floodplain studies or restudies with BFEs and floodway data is ***whether the floodplains of the flooding sources are currently or are projected to be subject to development pressure.***

http://www.fema.gov/plan/prevent/floodplain/fis_data.shtm. (Emphasis added.)

Likewise, in guidance entitled, *Floodplain Management Requirements; A Study Guide and Desk Reference for Local Officials*, FEMA states:

Detailed studies are expensive – a riverine study typically costs \$5,000 to \$10,000 per mile of stream that is to be mapped – so it is not cost effective to perform a detailed study in watersheds where there is little or no development and none is anticipated, such as rural areas.

Chapter 3, Subsection E, Approximate Studies, page 3-25.

In our interactions with FEMA staff, it has been asserted that the contracting State Agency has the discretion to either accept or not accept these local factors in their recommendation, essentially disclaiming both responsibility and authority. KDOA has said they were following FEMA's guidelines, and have little authority in this matter.

The breakdown in coordination between the State and FEMA to complete what should be another simple map modernization project has caused our communities and their citizens significant harm. And, since Congress did not delegate authority to the KDOA but to FEMA, it is clearly the entity that provides direction to the State.

It is not our intention to place "blame" on either FEMA or KDOA. We are not fully aware of the allocation of responsibilities between the two agencies. Instead, our concern is that the result is not in keeping with FEMA's guidelines, its regulations, or with the statutory mandate of coordination and cooperation with local units of government.

While we understand and support the need to include all properties that have real "special flood hazards" within the FIRM, an abrupt and dramatic change in the approach to addressing real or perceived flood hazards using data that are "approximate" and therefore very likely inaccurate, is not in keeping with our mutual obligations. It requires more deliberate and careful study than has occurred here.

III. Conclusion.

It is the goal of both the City of Garden City, and Finney County to provide a safe and healthy environment in which our citizens can prosper. Neither the City of Garden City nor Finney County wish to have landowners or occupants subjected to the personal, public health, or economic devastation caused by flooding and we especially do not want them to be uninsured in the event of a flood. Our continued participation in the National Flood Insurance Program is therefore essential. And we have appreciated the positive working relationship our governments have had with FEMA and KDOA over the last three decades; it is our sincere desire to continue our cooperation with FEMA and KDOA on behalf of and to protect the citizens of City of Garden City and Finney County.

However, because of the failure to properly coordinate the FIS and the resulting FIRM, as outlined here, we respectfully request that FEMA restart the FIS using proper procedures and more detailed and accurate data in order to afford our communities and their citizens the quality work product to which we and they are entitled.

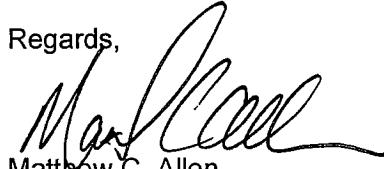
Because of September 25, 2009 deadline is fast approaching, we need to determine our rights and obligations and then our appropriate course of action very soon. We recognize that it may take some time for FEMA to determine how it should proceed, but we need to make our decisions very quickly. We would appreciate your prompt attention to this request and would like to have an agreement on our collective approach to this matter no later than August 21, 2009.

We would suggest that a meeting with the Regional Administrator and appropriate FEMA staff, the KDOA, and representatives of our communities be held to attempt to work toward a mutually acceptable solution.

Our communities stand ready to work with FEMA, KDOA, and contractors to begin this process over and to work through the process in a cooperative manner to achieve all of

our collective goals and objectives. We much prefer working in a collegial atmosphere and would rather avoid an adversarial process if that is possible.

Regards,



Matthew C. Allen,
City Manager



Peter H. Olson,
County Administrator

cc: United State Senator Sam Brownback
United State Senator Pat Roberts
United States Congressman Jerry Moran
United States Congressman Todd Tiahrt
Governor Mark Parkinson
Garden City Commissioners
Finney County Commissioners
Drainage Ditch #1 Committee
Drainage Ditch #2 Committee
Department of Homeland Security Secretary Janet Napolitano
Southwest Kansas State Legislative Delegation
Kansas Department of Agriculture
The Garden City Telegram
William R. Blanton, Jr., Engineering Management Branch, FEMA
Deborah Ingram, Risk Reduction Division, FEMA
Doug Bellomo, Risk Analysis Division, FEMA
Robert G. Bissell, Director, Mitigation Division, FEMA
Julie L. Grauer, CFM, FEMA
Randall D. Grisell, City Attorney
David M. Traster, Attorney



Federal Emergency Management Agency

Washington, D.C. 20472

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P-N

March 25, 2009

The Honorable David Crase
Mayor, City of Garden City
301 North 8th Street
P.O. Box 499
Garden City, Kansas 67846

Community: City of Garden City, Kansas
Community No.: 205186
Map Panels Affected: See FIRM Index

Dear Mayor Crase:

This is to formally notify you of the final flood hazard determination for your community in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulations. On September 3, 1997, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs) the areas subject to inundation by the base (1-percent-annual-chance) flood in the City of Garden City, Finney County, Kansas. Recently, FEMA completed a re-evaluation of flood hazards in your community. On September 23, 2008, FEMA provided you with Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in your community.

FEMA has addressed all comments received on the Preliminary copies of the FIS report and FIRM. Accordingly, the FIS report and FIRM for your community will become effective on September 25, 2009. Before the effective date, FEMA will send you final printed copies of the FIS report and FIRM.

Because the FIS for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter. Prior to September 25, 2009, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the enclosed NFIP regulations (44 CFR 59, etc.). These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all the standards specified in Paragraph 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and the other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish eligibility in the NFIP. Any additional requirements can be met by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d);
2. Adopting all the standards of Paragraph 60.3(d) into one new, comprehensive set of regulations; or

3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(d).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 as amended.

In addition to your community using the FIS report and FIRM to manage development in the floodplain, FEMA will use the FIS report to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified SFHAs. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as the lowest elevations (including basement) of new structures decrease in relation to the Base Flood Elevations established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be superseded when the revised FIRM panels referenced above become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the SFHA as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based is being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

The FIRM and FIS report for your community have been prepared in our countywide format, which means that flood hazard information for all jurisdictions within Finney County has been combined into one FIRM and FIS report. When the FIRM and FIS report are printed and distributed, your community will receive only those panels that present flood hazard information for your community. We will provide complete sets of the FIRM panels to county officials, where they will be available for review by your community.

The FIRM panels have been computer-generated. Once the FIRM and FIS report are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be obtained by calling our Map Service Center, toll free, at 1-800-358-9616. In addition, your community

may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If your community is encountering difficulties in enacting the necessary floodplain management measures, we urge you to call the Director, Federal Insurance and Mitigation Division of FEMA in Kansas City, Missouri, at (816) 283-7002 for assistance. If you have any questions concerning mapping issues in general or the enclosed Summary of Map Actions, please call our Map Assistance Center, toll free, at 1-877-FEMA MAP (1-877-336-2627). Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the National Flood Insurance Program*, *Frequently Asked Questions Regarding the Effects that Revised Flood Hazards have on Existing Structure*, *Use of Flood Insurance Study (FIS) Data as Available Data*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling our Map Assistance Center.

Sincerely,



William R. Blanton Jr., CFM, Chief
Engineering Management Branch
Mitigation Directorate

Enclosure:

Final Summary of Map Actions

cc: Community Map Repository
City Administration Center
301 N. 8th Street
Garden City, Kansas 67846

Mr. Kaleb Kentner
Floodplain Administrator
301 North 8th Street
Garden City, KS 67846

FINAL SUMMARY OF MAP ACTIONS

Community: GARDEN CITY, CITY OF

Community No: 205186

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs) and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on September 25, 2009.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMA	98-07-002A	02/05/1998	ORIGINAL TOWN, BLOCK 51, LOTS 1-9; BLOCK 52, LOTS 1-6; BLOCK 53, LOTS 1-6; BLOCKS 54, 55, 56, 58, 59	2051860005D	20055C0634E
LOMA	04-07-015A	11/05/2003	FINNUP ACRES ADDITION, BLOCK 1, LOT 9; 604 & 610 W. MAPLE STREET	2051860005D	20055C0634E

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new detailed flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
			NO CASES RECORDED	

FINAL SUMMARY OF MAP ACTIONS

Community: GARDEN CITY, CITY OF

Community No: 205186

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures has changed, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		



Federal Emergency Management Agency

Washington, D.C. 20472

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P-N

March 25, 2009

Mr. Peter Olson
Administrator, Finney County
311 North 9th Street
P.O. Box M
Garden City, Kansas 67846

Community: Finney County, Kansas
(Unincorporated Areas)
Community No.: 200099
Map Panels Affected: See FIRM Index

Dear Mr. Olson:

This is to formally notify you of the final flood hazard determination for your community in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulations. On September 3, 1997, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs) the areas subject to inundation by the base (1-percent-annual-chance) flood in the Unincorporated Areas of Finney County, Kansas. Recently, FEMA completed a re-evaluation of flood hazards in your community. On September 23, 2008, FEMA provided you with Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in your community.

FEMA has addressed all comments received on the Preliminary copies of the FIS report and FIRM. Accordingly, the FIS report and FIRM for your community will become effective on September 25, 2009. Before the effective date, FEMA will send you final printed copies of the FIS report and FIRM.

Because the FIS for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter. Prior to September 25, 2009, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the enclosed NFIP regulations (44 CFR 59, etc.). These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all the standards specified in Paragraph 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and the other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish eligibility in the NFIP. Any additional requirements can be met by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d);
2. Adopting all the standards of Paragraph 60.3(d) into one new, comprehensive set of regulations; or

3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(d).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 as amended.

In addition to your community using the FIS report and FIRM to manage development in the floodplain, FEMA will use the FIS report to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified SFHAs. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as the lowest elevations (including basement) of new structures decrease in relation to the Base Flood Elevations established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be superseded when the revised FIRM panels referenced above become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the SFHA as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based is being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

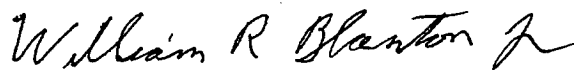
The FIRM and FIS report for your community have been prepared in our countywide format, which means that flood hazard information for all jurisdictions within Finney County has been combined into one FIRM and FIS report. When the FIRM and FIS report are printed and distributed, your community will receive only those panels that present flood hazard information for your community. We will provide complete sets of the FIRM panels to county officials, where they will be available for review by your community.

The FIRM panels have been computer-generated. Once the FIRM and FIS report are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be obtained by calling our Map Service Center, toll free, at 1-800-358-9616. In addition, your community

may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If your community is encountering difficulties in enacting the necessary floodplain management measures, we urge you to call the Director, Federal Insurance and Mitigation Division of FEMA in Kansas City, Missouri, at (816) 283-7002 for assistance. If you have any questions concerning mapping issues in general or the enclosed Summary of Map Actions, please call our Map Assistance Center, toll free, at 1-877-FEMA MAP (1-877-336-2627). Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the National Flood Insurance Program*, *Frequently Asked Questions Regarding the Effects that Revised Flood Hazards have on Existing Structure*, *Use of Flood Insurance Study (FIS) Data as Available Data*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling our Map Assistance Center.

Sincerely,



William R. Blanton Jr., CFM, Chief
Engineering Management Branch
Mitigation Directorate

Enclosure:
Final Summary of Map Actions

cc: Community Map Repository
Finney County Courthouse
425 North 8th Street
Garden City, KS 67846

Mr. Kaleb Kentner
Floodplain Administrator
301 North 8th Street
Garden City, KS 67846

FINAL SUMMARY OF MAP ACTIONS

Community: FINNEY COUNTY

Community No: 200099

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs) and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on September 25, 2009.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMA	99-07-320A	03/01/1999	A PORTION OF SECTION 8, T24S, R33W, 6TH P.M.; 202 SOUTH SHARECROPPER ROAD	2000990300B	20055C0626E
LOMA	04-07-142A	12/12/2003	PORTION OF SECTION 16, T24S, R34W, 6TH P.M.	2000990275B	20055C0610E
LOMA	06-07-BC92A	11/21/2006	PIERCEVILLE, BLOCK 18, LOT 6 -- 412 SOUTH ELM STREET (KS)	2000990325B	20055C0700E

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new detailed flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
			NO CASES RECORDED	

FINAL SUMMARY OF MAP ACTIONS

Community: FINNEY COUNTY

Community No: 200099

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures has changed, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		