

A newsletter for people concerned with water management issues



## LETTER FROM THE CHAIR

Dave Fowler, CFM

I am very enthusiastic as we enter our third year as an organization. Our 2003 conference "Storms, Floods, and Mitigation" at the Klahari Resort was a smashing success. The two-day conference received a lot of praise from all who attended. We had excellent mix of state, local and federal officials as well as consultants as both attendees and presenters. There were concerns with coordinating three plenary sessions but I think the quality of the presentations made it worth the effort. I would also like to extend a personal thank you to the 2003 conference committee and Dan Cook the chairman for a job well done. We hope to continue that success at our 2004 conference in La Crosse, November 10<sup>th</sup> and 11<sup>th</sup>, 2004.

Another step forward was our application to the National Association of Floodplain Managers for official chapter status. We should hear back soon and if the application is accepted we could have our chapter recognized at the National Convention in Biloxi Mississippi, May 16<sup>th</sup>-21<sup>st</sup>, 2004. If you have not attended one of the national conferences in the past I highly recommend it, it is a great experience. In June of 2005 the conference will be in Wisconsin once again, this time in Madison. Our association will be the host of the event, and we are hoping for a strong turn out.

I am also very encouraged by the number of volunteers that stepped forward during and after the conference to volunteer their time and efforts to keep this organization moving forward. It looks like we will soon have a web site operational in 2004 and the conference committee has already made a good start for this year's conference. However, I will say again that an organization such as the one we are building here in Wisconsin relies on the voluntary contributions of its members for a large part of the work to be done. As our organization grows, so will the work. I hope we can count on all of our members to pitch in when the call comes to ask for volunteers.

At this time the WAFSCM list of members has grown to 120 members and the list continues to grow has more membership forms are sent in. If this organization is one that you feel is worthy of support, we welcome your membership and help. If you are interested please contact David Fowler by phone at (414) 277-6368 or E-mail [dfowler@mmsd.com](mailto:dfowler@mmsd.com).

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### **WAFSCM ELECTS OFFICERS**

As part of the WAFSCM conference held last November, Association officers were elected during the business portion of the meeting. The Association is lucky to have three officers returning to their positions along with a very competent addition to the Board.

**David Fowler** is returning as Chair. He is a Senior Project Manager in the Watercourse Division of the Milwaukee Metropolitan Sewerage District in Milwaukee. In 20 years at the District, Dave has been actively involved with environmental issues impacting the Great Lakes area through his positions as an Aquatic Biologist and the Environmental Policy Coordinator. In his current position he is focusing on the flood management programs being initiated by the District and his current projects involve the Menomonee River, Lincoln Creek and the Root River. Dave is also a Certified Floodplain Manager.

**Gary Korb** is the newly elected Vice-Chair. Gary is the Regional Planning Educator, University of Wisconsin-Extension, working with the Southeastern Wisconsin Regional Planning Commission. He was previously the Water Quality Education Coordinator and Natural Resources Agent in the UW-Extension Southeast District, dating back to 1981. He is currently the Chair of the Joint Council of Extension Professionals-Wisconsin. Gary helped start and maintain this association and has been a particularly active member of the WAFSCM Conference Planning Committee.

**Susan Josheff** returns as the Association's Secretary. Sue is an engineer for the Department of Natural Resources working in the floodplain management and dam safety programs at the South Central Region Headquarters in Fitchburg. She has been working in floodplain management for more

than twenty-three years for WDNR, FEMA and in private consulting. She is a registered professional engineer (PE), a registered professional hydrologist (PH) and a Certified Floodplain Manager (CFM).

**Jennifer Wright** returns as the Treasurer. Jennifer has a civil engineering degree from Purdue University, and is currently a Senior Project Manager for the Milwaukee Metropolitan Sewerage District. She has worked in both the private and public sectors in transportation and water resource related projects. Jennifer is a registered professional engineer (PE) in the State of Wisconsin.

Thanks to Dave, Gary, Sue and Jennifer for agreeing to serve as this year's WAFSCM board.

### **SPECIAL THANKS TO MARK AND DAN**

We need to thank two of our members who have contributed greatly to WAFSCM the last few years. Both have been tirelessly working for us even before we were an association. Each is leaving important positions but will continue to help make WAFSCM a better Association.

**Mark Riebau, PE** is a founding member of WAFSCM and was our association's first Vice-Chair. Mark recently moved back to Madison from Chippewa Falls where he worked for Short Elliott Hendrickson, Inc. to take a position with the Association of State Floodplain Managers. Since the national association works very closely with all state associations, it was felt that Mark, as paid staff of ASFPM, shouldn't continue in an elected WAFSCM position. Mark has agreed to remain an active member of WAFSCM and to chair the Nomination Committee. Thank you Mark for

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serving as our Vice-Chair and we look forward to a lot more of your time and effort.

**Dan Cook, PE** was our Conference Chair for the first two years of the Association and led a committee to create excellent conferences. He and his committee took the conference from a concept to reality. From the 'Call for Papers' to the conference adjournment, Dan was busy in every aspect of the conference. Dan is very busy, even when not addressing WAFSCM matters, working as a water resources engineer for the firm of Graef, Anhalt, Schloemer & Associates, Inc. out of their Milwaukee office. Thank you Dan for serving as our Conference Chair and stay close to your phone - this year's Conference Committee is going to want to talk to you!

### **MODEL FLOODPLAIN ORDINANCE UPDATE**

To more efficiently manage the adoption of the new floodplain ordinance, the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency have agreed to phase in required adoption dates for Wisconsin communities.

The first phase of the adoption process will focus on the 69 participating counties. A joint DNR/FEMA letter will be sent out in January informing all the counties of their obligations as participants in the National Flood Insurance Program and the need to adopt the new model as soon as is practical. All communities will have one year from the date of the formal notification letter to adopt the new model language. DNR and FEMA staff will be available to provide assistance in the revision and adoption process, which will include working with local staff if extensions are needed in order to avoid suspension from the NFIP.

Later this year the second phase will commence with letters sent to incorporated communities in urbanized areas of the state. A final phase focused on rural cities and villages will occur in 2005.

Changes were made to the old (1991) model ordinance due to failure to comply with minimum NFIP standards, to clarify accessory structure and campground standards and to modify or add new definitions. It is critical that all Wisconsin communities adopt the new model, not only to stay in good standing in the NFIP, but also to remain eligible for state and federal disaster aid and mitigation grants and for new floodplain maps and better elevation data as the Map Modernization process continues.

Communities can access the DNR web page at <http://www.dnr.state.wi.us/org/water/wm/dsfm/flood/title/htm> to view the new model, in both a clean version that is ready to adopt (after the blanks are filled in) and an annotated version that shows the language changes that were made with explanations. Some of the more important changes are highlighted below.

### **OFFICIAL MAP**

All communities participating in the NFIP must use the Flood Insurance Rate Map (FIRM), which is derived from the Flood Insurance Study (FIS) as the official floodplain map for all federally identified Special Flood Hazard Areas (SFHA's) in the community. If other entities - state agencies, private consultants, etc. - identify and map other flood hazard areas in the community, those maps can also be adopted by the community and used to regulate those floodplain areas. However, the official FIRM cannot be modified (changes to flood elevations or boundaries) or superceded unless the new study has been reviewed and approved by the DNR and FEMA.

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There are two exceptions to this requirement. If better technical data shows that flood elevations are higher or that floodplain boundaries are greater than shown on the approved FIS/FIRM, that data can be used by the community as "best available data," contingent on approval from the DNR. If that data decreases flood elevations or decreases floodway/floodplain widths, both DNR and FEMA must approve the study before the community can adopt and utilize that information.

If the community has SFHA's with no detailed information (i.e., no flood elevations or floodplain delineations), the community can use better technical data to set flood elevations and floodplain or floodway boundaries, contingent on approval from the DNR. In either case, FEMA may use the better technical data to publish a new FIRM, subject to mapping priorities agreed upon by the DNR and FEMA, or the data may be used to issue a Letter of Map Change (LOMC), but not a new map.

The "Official Map" section of the model ordinance (1.5(2)) has been divided into two sections, one for maps based on the FIS and one for maps based on other studies. This change was made to emphasize that all FEMA-approved maps derived from the FIS need both DNR and FEMA approval before any changes can be made to them, while maps based on other studies only need DNR approval.

### **REMOVING LAND FROM THE FLOODPLAIN**

Section 1.5 (5) has been modified to clarify that the standards in NR 116.18 for removing land from the floodplain are not related to the federal flood insurance waiver standards. The insurance provisions can only be waived through the LOMC process. Conversely, a LOMC does not fulfill state standards for removing land. Property owners who wish to remove land from the floodplain and have the

insurance provisions waived must follow both processes. FEMA staff must be consulted regarding LOMC requirements.

### **ANNEXED LAND**

A municipality that annexes land must enforce the minimum county regulations until the municipality adopts a floodplain ordinance that is at least as restrictive as the county's and that meets minimum NFIP requirements.

### **General Development Standards**

This section discusses minimum permitting and construction standards, derived from federal technical manuals, which FEMA requires in order to be compliant with the NFIP.

### **ONE-FOOT WAIVER STANDARD**

A waiver in the old model for exceeding the one-foot maximum increase in flood elevation due to new development has been deleted because it does not meet minimum NFIP standards. A note has been added that FEMA must approve any increased flood elevations.

### **FLOODPLAIN CAMPGROUND STANDARDS**

These standards meet minimum state and federal standards. Only mobile recreational vehicles (definition added) are allowed in campgrounds and are limited to a 180-day stay. The campground must have an approved emergency evacuation plan and the flood warning time must be at least 72 hours.

### **NON-FLOOD-DAMAGED STRUCTURES EXEMPTED**

Section 6.1(1)(e)2 has been added to comply with a statutory change which exempts non-flood-damaged structures from the substantial damage provisions of the nonconforming section. Structures that qualify can be rebuilt

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to the same size and use as the pre-damaged structure if all FEMA criteria can be met.

### **HISTORIC STRUCTURE LANGUAGE**

To meet FEMA standards, section 6.1(1)f has been added which allows nonconforming historic structures to be altered if the work will not preclude the structures continued designation as a historic structure.

### **VARIANCE LANGUAGE**

FEMA variance language has been added which in addition to boards for all floodplain variance applications, in addition to state criteria must consider. A recent Wisconsin Supreme Court decision struck down the prohibition on granting variances below the regional flood elevation, so that section has been modified.

If you have questions concerning the model ordinance, adoption requirements or other issues, please contact Terry Lohr at (608) 267-2375 or [Terry.Lohr@dnr.state.wi.us](mailto:Terry.Lohr@dnr.state.wi.us), or your regional DNR/FEMA contact listed below:

Northern Region - Frank Dallam, (715) 635-4064, [Frank.Dallam@dnr.state.wi.us](mailto:Frank.Dallam@dnr.state.wi.us)  
West Central Region - Greg Breese, (715) 831-3271, [Gregory.Breese@dnr.state.wi.us](mailto:Gregory.Breese@dnr.state.wi.us)  
South Central Region - Pam Biersach, (608) 275-3282, [Pamela.Biersach@dnr.state.wi.us](mailto:Pamela.Biersach@dnr.state.wi.us)  
Southeast Region - Kathy Kramasz, (920)892-8756, ext. 3031, [Kathleen.Kramasz@dnr.state.wi.us](mailto:Kathleen.Kramasz@dnr.state.wi.us)  
Northeast Region - Mike Russo, (920) 448-5142, [Michael.Russo@dnr.state.wi.us](mailto:Michael.Russo@dnr.state.wi.us)

### ***DNR FLOODPROOFING RULE UPDATE***

The Mississippi basin flood of 2001 caused extensive flooding in 34 communities from Grant County to Prescott. Homes were inundated, businesses were closed, and numerous streets and bridges were

impassable for weeks at a time. A presidential disaster declaration was issued and federal, state and local emergency management staff spent several months working with local residents to put their lives back together.

Due to concerns over the floods, a number of property owners in affected areas began to investigate the feasibility of elevating their structures to protect them from flooding. At the same time, the department was involved in several enforcement cases regarding how the costs for elevating a nonconforming structure should be treated. In Wisconsin, any existing structure in the floodway - or an existing structure in the floodfringe that is not properly elevated - is considered a legal nonconforming structure.

Under the nonconforming provisions in both NR 116 and the state model floodplain ordinance, the department has treated the costs associated with elevating a nonconforming structure as a structural modification. This type of work has never been treated as "ordinary maintenance and repair," which is the only type of work that is excluded from the 50 percent lifetime cap in the current rule. Because of the costs of elevating some of these structures and the low assessed values of many of the older cabins, proper elevation wasn't feasible for many property owners.

In response to concerns raised by some property owners, the Wisconsin Legislatures' Joint Committee for Review of Administrative Rules (JCRAR) passed a motion requesting that the department amend NR 116 to "provide that ordinary maintenance repairs, in a floodplain, to a nonconforming building or a building with a nonconforming use includes floodproofing." The department agreed to begin the administrative rule-making process to permit the proper elevation of floodplain

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nonconforming structures without limit as to the costs.

Instead of classifying elevation costs as "ordinary maintenance and repair," the department chose to simply exclude the costs from the 50 percent lifetime cap. Therefore, section NR 116.15(1)(c) is proposed to be amended to add the following sentence: "The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph."

This change was made for a very good reason - to remain compliant with minimum National Flood Insurance Program requirements. Chapter 60 of the NFIP regulations has no exclusions for "ordinary maintenance and repairs." Under these regulations, all costs to repair, modify or add on to a nonconforming structure count against the 50 percent cap unless the structure is brought into compliance. Compliance can most easily be achieved by properly elevating the structure. Under this proposal, if the structure is raised to the flood protection elevation, there are no cost limitations on repairs, modifications or additions.

Because the JCRAR only directed the department to exclude floodproofing costs, other critical performance standards for structures in dangerous floodplain areas are not part of this amendment. To complete the process, the department is currently drafting additional performance criteria for elevation projects. These criteria would include prohibitions on expansion of the structure's footprint, allow no enclosed areas below the elevated structure, require that all utilities and service facilities be floodproofed and otherwise brought into compliance, anchor all storage containers/tanks; and require that the community develop an approved emergency warning and evacuation plan. These criteria

are part of a larger NR 116 update which is projected to go out for public hearings later this spring or summer.

The Natural Resources Board approved the JCRAR amendment at its January 27<sup>th</sup> meeting in Madison. The amendment will now go to the legislature for review and approval. If approved, the amendment will become law later this spring. At that time, the department will provide guidance to all participating NFIP communities on how to implement the new regulations. Further information will be available in the next edition of the department's *Floodplain-Shoreland Management Notes*.

In addition to the floodproofing amendment, JCRAR has also directed the department to add a definition for "decks" to NR 116 and specifically allow decks in the floodplain. The current proposed definition for a deck is "an unenclosed exterior structure that is adjacent to the exterior wall of a principal structure and that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation."

The proposed amendment to section NR 116.15(1)(a) would allow a deck of up to 200 square feet to be constructed and that such a deck would not be considered an extension, modification or addition to the structure. Therefore, the costs of constructing the deck would not count against the 50% lifetime cap. A public hearing was held on this issue on December 18<sup>th</sup>. Board action is expected later this spring.

If you have questions about any of the proposed amendments, please contact Gary Heinrichs at (608) 266-3093 ([Gary.Heinrichs@dnr.state.wi.us](mailto:Gary.Heinrichs@dnr.state.wi.us)).

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## **STATE TO UPDATE HAZARD MITIGATION PLAN**

The State of Wisconsin Hazard Mitigation Plan was completed in July 2001 and serves as a guide for reducing the effects of natural hazards within the State. The Plan identifies the State's major hazards, assesses the risk and vulnerability to those hazards and includes steps to reduce that vulnerability using the technical and program resources of state agencies. The Wisconsin Emergency Management (WEM) is responsible for the development of the State Plan, which was developed over a two-year period in coordination with the State Hazard Mitigation Team. The State of Wisconsin's Hazard Mitigation Plan can be viewed and downloaded from WEM's website:

[http://emergencymanagement.wi.gov/html/state\\_risks\\_n\\_mitigation\\_planning/html](http://emergencymanagement.wi.gov/html/state_risks_n_mitigation_planning/html).

Just like local governments and tribal organizations, the State is required to develop or in this case to revise its plan to meet certain mitigation planning requirements per federal regulations (44 CFR Section 106.) The State's mitigation plan was completed prior to the regulations, therefore, will need to be revised to meet the new requirements. If the State fails to meet the requirements, significant future disaster assistance could be jeopardized. To meet these planning requirements, the State Hazard Mitigation Team has been expanded to include representatives from several federal agencies, and from the Wisconsin Association of Floodplain, Stormwater and Coastal Managers and its name was changed to the Wisconsin Hazard Mitigation Team. The Team has representatives from eleven state and five federal agencies as well as from a Regional Planning Commission and WAFSCM.

Like the local mitigation planning process, the State also has to coordinate with state and federal agencies, and seek participation and

input from other interested groups, such as business leaders, non-profit groups, community representatives, and individuals. WEM has developed a draft Agency Outreach and Public Participation Strategy to assist it in meeting this planning requirement. The Strategy will include conducting meetings, mailings, announcements and press releases, and an internet web-site to seek input from other agencies, organizations, groups and others interested in the process and Plan. Over the next several months, WEM will begin to implement the strategy. As it begins to implement the strategy and update the plan, information will be added to WEM's website. If you would like to find out more about the planning process or want to be involved, contact WEM's mitigation staff at 608-242-3232. For more information regarding the State's hazard mitigation program in general, visit <http://emergencymanagement.wi.gov>.

## **WATER QUALITY INITIATIVE**

The Milwaukee Metropolitan Sewerage District (MMSD) is starting a long-range planning process to look at how we can best meet the region's water quality needs. We've done a lot of work on our collection and treatment systems in the past, and we want to make sure we continue to spend your tax dollars appropriately on projects that will further improve water quality for generations to come.

To develop this plan, we're using the Watershed Approach, which is now recommended by the US Environmental Protection Agency (EPA) as the best way to do water resources planning. The Watershed Approach uses nature's boundaries to plan instead of city limits. It recommends decisions based on science and requires strong partnerships with people, interest groups, and agencies.

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The Watershed Approach will help us look at things like separating sewers, operating the deep tunnel, and reducing overflows even further than the 95 percent reduction we've seen over the past 9 years. It will also help us look at other sources of pollution, so that money can be spent on solutions that can really work!

Here is the mission statement for the Water Quality Initiative:

*The MMSD 2020 Facility Plan will identify which policies, operational improvements, facilities, and programs are required to achieve the water resource goals inspired by our public.*

## **WATERSHED APPROACH**

Within the last decade, the U.S. EPA has encouraged agencies like MMSD to use a "watershed" approach to planning to better address water resource issues. This comprehensive approach identifies and considers all kinds of pollution within a watershed. Other agencies nationwide have used this approach and achieved great results. Working together with diverse groups throughout Milwaukee, the watershed approach gives people in the community a voice in decisions that affect their everyday lives.

Instead of focusing resources on one particular water quality problem, the watershed approach looks at the big picture. Decisions are based on all the water resources, all the water uses, and all the systems throughout the watershed, including surface water, groundwater, and wetlands. The outcome will be better information for decision-makers and better information for you. A successful watershed approach includes the support, participation and leadership of people like YOU.

## **LOCAL MITIGATION PLANS DUE NOVEMBER 1<sup>ST</sup>**

What happens if a community does not have a mitigation plan on November 1, 2004? This is the date that certain consequences and limitations related to disaster assistance go into effect if a community doesn't have such a plan. So, what will really happen?

In October 2002, the Federal Emergency Management Agency (FEMA) issued an interim final rule regarding dates and related requirements for local and state mitigation plans. A subsequent rule, issued on October 2003, modified one of those dates. The current effective regulations are found at 44 CFR Parts 201 and 206.

The November 1, 2004, deadline is not a "drop-dead" deadline. When the date has come and gone, it won't mean the end of planning. Planning won't come to a screeching halt and the opportunity to seek mitigation funds will not be lost forever. Communities can and should continue to develop and adopt plans after that date, and funds to support the planning will continue to be made available through FEMA's Pre-Disaster Mitigation (PDM) and the Hazard Mitigation Grant (HMGP) Programs.

But November 1, 2004 is a very important date to keep in mind because there are certain consequences and limitations that will go into effect on that date.

For the HMGP, after November 1, 2004, funding will only be available in states that have an approved mitigation plan. As set forth in current federal regulations, there are two consequences or limitations if a community does not have an approved mitigation plan. 1) For disasters declared prior to November 1, 2004, a community without a plan can apply for and receive an HMGP project grant, but must

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commit to developing the plan while implementing the project. 2) For disasters declared after November 1, 2004, a community without a plan cannot receive HMGP project grant funds. It may, however, apply for a planning grant under the 7% of HMGP funds available for planning.

For the PDM, the November 1, 2004 deadline does not affect PDM funding. A community without an approved plan may apply for PDM funding for plan development, but communities must have an approved plan in order to receive a PDM project grant. This means that the community's mitigation plan has to be approved before a project grant is awarded.

There are presently 40 (28 counties, 11 municipalities) and 3 tribal organizations developing all hazard mitigation plans in the State. These plans have been funded through Project Impact, HMGP and PDM. For more information, contact State Mitigation staff at Wisconsin Emergency Management at 608-242-3232.

**We would like to recognize and thank our generous sponsors that helped make the 2003 WAFSCM Conference a success:**

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Hydro International  
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Wausau Concrete Co.***

## **EMERGENCY MANAGEMENT CONFERENCE**

The Wisconsin Emergency Management will be holding the 37<sup>th</sup> Annual Governor's Conference on Emergency Management on March 30-31, 2004 at the Radisson Paper Valley Hotel in Appleton. Conference registration material can be downloaded at <http://emergencymanagement.wi.gov>.

## **WAFSCM MEMBERSHIP**

If this organization is one that you feel is worthy of support, we welcome your membership and help. Annual membership is \$20 and a membership application/renewal form has been included with this newsletter. **NOTE: If you attended the 2003 WAFSCM Conference in Wisconsin Dells, the 2004 membership was included in the registration.**

***If you have received this newsletter and are not interested in receiving future mailings, please let us know so we can remove you from our mailing list. If you are not the correct contact person, please forward to the individual and provide us with the correct contact information. If you are interested in receiving future newsletters and other information electronically, provide your e-mail address.***

***Please forward the above information and your e-mail address to Gary Heinrichs, WT/2, Wisconsin Department of Natural Resources, P.O. Box 7921, Madison, WI 53707-7921 or e-mail at [Gary.Heinrichs@dnr.state.wi.us](mailto:Gary.Heinrichs@dnr.state.wi.us).***

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