
NeFSMA

Nebraska Floodplain and Stormwater Management Association

SPRING 2005

BOARD AND MEMBERSHIP

MEET ONE OF THE BOARD MEMBERS

In this gateway issue of the NeFSMA Newsletter, we would like to introduce you to Carter Hubbard. Carter is our first NeFSMA Board Chairman. Carter is a Professional Engineer who is working for Olsson Associates in their Lincoln offices.



Carter is a multiple graduate of the University of Nebraska-Lincoln, with 8 years of experience in floodplain and stormwater management projects. Carter is a long-standing member of ASFPM and regularly attends their annual National Conference.

Carter is married with two children. He resides in Lincoln. When not involved with work activities, Carter enjoys spending time with his family, traveling, fishing, reading, and jogging.

Carter and all of our board members are here to help serve you in any way we can. We have a great cross section of professionals to assist you with floodplain and stormwater issues and questions. Please don't hesitate to contact us at any time. Contact information for all board members is listed on the website (www.nefsma.net).

MEMBERSHIP DRIVE

Now that NeFSMA is an official organization, the time has come to become a productive organization. Everyone is encouraged to help spread the word about who we are and what services and support for the floodplain and stormwater management community we propose to provide. We are actively seeking members. As of this date our numbers stand at 26 paid members and 7 corporate sponsors. Establishing a broad membership base from various backgrounds and statewide representation is important to our becoming a successful organization. Becoming a member of NeFSMA now, during this formative period, will allow active participants to establish the focus and direction of the organization. Membership application information is available on our website.

NEW MEMBERS

The following corporate/organization sponsors have joined NeFSMA:

- City of Lincoln
- City of South Sioux City
- HDR Engineering, Inc.
- Lower Platte South Natural Resources District
- Olsson Associates
- Papio-Missouri River Natural Resources District
- Thompson, Dressen & Dorner, Inc.

The following individuals have joined NeFSMA:

- John Cambridge, HDR Engineering, Inc.
- Laurie Carrette Zook, HDR Engineering, Inc.
- Martin Cleveland, Papio-Missouri River Natural Resources District (P-MRNRD)
- Kent E. Cordes, Miller & Associates
- Paul Dierking, HDR Engineering, Inc.
- Brian P. Dunnigan, Nebraska Department of Natural Resources (NDNR)
- Patrick Engelbert, HDR Engineering, Inc.

FLOODPLAIN MANAGEMENT

LETTERS OF MAP REVISION BASED ON FILL AND THE COMMUNITY ACKNOWLEDGEMENT FORM

Prior to recent changes in the National Flood Insurance Program, an individual could exclude a parcel of land from the floodplain by bringing in fill and applying to FEMA for a Letter of Map Revision Based on Fill (LOMR-F). This was a very straightforward process. By bringing sufficient fill to the site the developer, using FEMA Form MT-EZ or MT-1, made application to FEMA to remove the parcel from the floodplain because it had been adequately protected by fill to ensure that flood waters would not reach the structure. The applicant needed to provide a copy of the deed, a copy of the appropriate portion of the FIRM, a completed and sealed FEMA Elevation Certificate, and the Community Acknowledgement Form. The acknowledgement form simply informed the community that the floodplain development was occurring and it provided a mechanism to ensure that the local government was aware of the activity.

If the LOMR-F was approved by FEMA, technically the area was no longer located in a special flood hazard area, and floodplain management regulations no longer applied to that parcel. At that time, though perhaps not wise, an individual could construct a building with the lowest floor excavated below the level of the 100-year flood, and it was allowed, from a floodplain management standpoint. If, however, the individual had started construction on the same development prior to receipt of the LOMR-F, the structure was in the floodplain. It is not a compliant structure. It is a violation of ordinance requirements. There is no way to bring the structure into compliance outside of elevating the building above to 1-foot above the Base Flood Elevation (BFE) required by Nebraska Minimum Standards.

This incongruity led to political pressure on FEMA to address this issue. Their answer is the "NEW" Community Acknowledgement Form. This form includes the following text, *"In addition, we have determined that the land and any existing or proposed*

- Nicole Fleck-Tooze, City of Lincoln
- Paul Gonzales, The Schemmer Associates
- Randy Graham, PBS&J
- Jim Green, Village of McCool Junction
- Lance Hedquist, City of South Sioux City
- Ben Higgins, City of Lincoln
- Carter Hubbard, Olsson Associates
- Charles Ikenberry, Olsson Associates
- Lalit Jha, JEO Consulting Group, Inc.
- Glenn Johnson, Lower Platte South Natural Resources District
- Bill Jones, Nebraska DNR
- LeAnn Klein, Buffalo County
- John Kottman, Thompson, Dreessen & Dorner, Inc.
- John McKee, Jefferson County
- Marlin Petermann, P-MRNRD
- David Potter, City of LaVista
- Jeff Sinnett, City of LaVista
- Rodney Verhoeff, Lower Platte River Corridor Alliance
- Paul Woodward, P-MRNRD

NEFSMA NEWS

NON-PROFIT STATUS ESTABLISHED

At an October 2004 meeting the non-profit status of NeFSMA was established. There are two non-profit categories: Category 501 C6 and Category 501 C3. Category 501 C6 allows organization to lobby and limits tax deductions on payments/activities. Category 501 C3 is fully non-profit, allowing for tax deductions, however lobbying is not allowed. This non-profit category can testify and provide materials, but cannot take a position on issues.

The second category (501 C3) was selected for NeFSMA. This status means that NeFSMA, as an organization, cannot actively lobby. It does not mean that individuals belonging to the association are barred from such activities.

A special thanks to Glenn Johnson and the Lower Platte South NRD staff for assisting in securing non-profit status!

structures to be removed from the SFHA are or will be reasonably safe from flooding as defined in 44CFR 65.2 (c), and that we have available upon request by FEMA, all analyses and documentation used to make this determination”

Reasonably Safe From Flooding is discussed in detail in FEMA Technical Bulletin 10-01 “Ensuring That Structures Built on Fill In or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding in accordance with the National Flood Insurance Program”. Technical Bulletins are available from FEMA’s website at www.fema.gov/fima/techbul.shtm.

The bulletin does not give clear guidance on how a community can legally enforce floodplain management regulations on areas no longer identified as “Special Flood Hazard Areas.”

The City of Lincoln, Nebraska researched this issue and has developed a procedure to ensure that Lincoln will be able to control future development on these parcels. They have shared this information on the internet at <http://www.ci.lincoln.ne.us/city/build/flood/index.htm> or www.ci.lincoln.ne.gov/city/building/JC/index.htm. Select the files titled B_R_A (Building Restriction Agreement).

STORMWATER MANAGEMENT

RE-EVALUATION OF NPDES PHASE COMMUNITIES

On February 10, 2005, NDEQ notified 10 communities across the state with a population of 10,000 or greater that an NPDES Phase II Permit application is to be submitted within 180 days or by July 10, 2005. NDEQ reviewed the 6 criteria they used to designate small municipal separate storm sewer system (MS4) communities under the NPDES program. The 10 communities include: Norfolk, Hastings, Beatrice, Grand Island, Kearney, Fremont, Columbus, North Platte, Lexington, and Scottsbluff.

LEGISLATIVE ISSUES

LB 619 - SAFETY OF DAMS AND RESERVOIRS ACT

LB 619 establishes the Safety of Dams and Reservoirs Act which gives the Nebraska Department of Natural Resources (Department) the authority to inspect review and assure that all dams are safe and protect life and property.

The bill divides dams into four categories as follows: 1) High hazard potential which means a hazard potential classification such that failure or misoperation of the dam is likely to cause loss of human life, 2) Low hazard potential means a hazard potential classification such that failure or misoperation of the dam would result in no probable loss of human life and in low economic or low environmental loss, 3) Minimal hazard potential which means a hazard potential classification such that failure or misoperation of the dam would likely result in no economic loss beyond the cost of the structure itself and losses principally limited to the owner's property, and 4) Significant hazard potential means a hazard potential classification such that failure or misoperation of the dam would result in no probable loss of human life but could result in major economic loss, environmental damage, or disruption of lifeline facilities or could impact other concerns.

The Department may adopt and promulgate rules and regulations containing standards for the design, inspection, construction, reconstruction, enlargement, repair, alteration, breach, removal, and abandonment of dams to carry out the purposes of the Act. Such rules and regulations may include, but are not limited to, establishing: (a) standards and criteria for the siting and design of dams, considering both existing and projected conditions which may affect the safety of a project during its construction and operational life; (b) requirements for operation of dams, including operational plans to be prepared and implemented by owners; (c) requirements for monitoring, inspection, and reporting of conditions affecting the safety of dams; and (d) requirements for emergency action plans to be prepared and implemented by owners in cooperation with emergency management authorities.

For adopting rules and regulations applicable to dams which may have a high hazard potential or a significant hazard potential, the department may consider: (a) The state of scientific and technological knowledge and good engineering practices relating to various types of dams; (b) The economic impact upon the state and its citizens; (c) The relationship of dams in hydrologic management in the watershed as a whole; and (d) The impacts of dams upon water quality and the environment.

LB 619 creates the Dam Safety Cash Fund to operate the program. An application needs to be submitted for approval of construction, reconstruction, enlargement, repair, alteration, breach, removal, or abandonment of a dam and shall be accompanied by a filing fee as established by rule and regulation of the Department but not to exceed (a) \$200 for a dam less than 25 feet in height, (b) \$300 for a dam 25 feet in height to not more than 50 feet in height, and (c) \$400 for a dam in excess of 50 feet in height.

The Department may take any administrative or legal action necessary for the enforcement of the Safety of Dams and Reservoirs Act. Any person who violates the Safety of Dams and Reservoirs Act or an application approval, an approval to operate, a rule, a regulation, an order, or a requirement of the Department under the act may be assessed a civil penalty in an amount not to exceed \$500 per day for each day the violation continues.

Source: Nebraska Association of Resource Districts

LB 102 - STORMWATER UTILITY

LB 102 authorizes NRDs, counties, and certain cities to establish and fund stormwater management programs. The bill authorizes villages, cities, municipalities, counties and NRDs to work independently or together to develop and implement stormwater management plans and programs. The costs for the storm sewer system programs would be based on fees. The fees are based upon estimated stormwater contributions, adjustments for impervious surfaces and best management practices. The political subdivision handling the program could create exemptions to entities that are exempt from property taxes, such as churches. Only one subdivision storm water fee would be applicable and the program would only be implemented in those areas as required by federal law.

Source: Nebraska Association of Resource Districts

UPCOMING EVENTS

PROPOSED EVENTS & WORKSHOPS

NeFSMA is working with a variety of organizations to co-sponsor workshops to provide useful training to its members. We are directing our activities toward all facets of the organization. Please check the website (www.nefsma.net) for announcements of dates, times, and locations! Here are a few upcoming events.

- ◆ NDNR is working with FEMA to bring a National Flood Insurance Program Map Change Workshop to Nebraska. As planned, this will be a one-day workshop to provide information to community officials, engineers, surveyors and other individuals working to change Flood Insurance Rate Maps (FIRMs) and Flood Boundary Floodway Maps (FBFMs) to accommodate existing and proposed development. The use of FEMA Forms MT-EZ, MT-1 and MT-2 will be discussed. Letters of Map Amendment, Letters of Map Revision Based on Fill, Conditional Letters of Map Revision, FEMA Elevation Certificate, and the Community Acknowledgement Form are subjects that will be covered.
- ◆ Continuing Education Credits through the Association of State Floodplain Managers (ASFPM) will be available for Certified Floodplain Managers (CFMs) and other professionals to assist in the accumulation of credits for certification.
- ◆ Plans are also underway to provide another flood proofing workshop by the U.S. Army Corps of Engineers Floodproofing Committee. NDNR has sponsored these workshops in Omaha, Lincoln, and North Platte. We plan to make this workshop available in the northeast part of the state this year.
- ◆ NeFSMA is proud to present a seminar titled NPDES: A Roadmap for Nebraska's Phase II Communities. EPA regulations require designated Phase II permittees at a minimum to develop, implement, and enforce a stormwater program designed to reduce the discharge of pollutants from the municipal separate storm sewer system (MS4) to the maximum extent practicable. The stormwater

management program must include these six minimum control measures:

1. Public education and outreach on stormwater impacts
2. Public involvement/participation
3. Illicit discharge detection/elimination
4. Construction site stormwater runoff control
5. Post-construction stormwater management in new development and redevelopment
6. Pollution prevention/good housekeeping for municipal operations

This seminar will provide new Phase II communities and their staff with guidelines and insights to help them implement their own programs effectively. A panel made up of professionals from Omaha and Lincoln will draw on their challenges and experiences implementing their own programs.

While the seminar will give guidance towards achieving permit compliance, there will also be an underlying theme about going above and beyond simple compliance, and making a real difference in their communities, and the environment they are called on to protect.

The seminar is April 21, 2005, 9:00 a.m. to 3:30 p.m. at the offices of Central Platte Natural Resources District (CPNRD), in Grand Island. Lunch will be provided for all attendees.

2005 BOARD OF DIRECTORS

Chair:

Carter Hubbard, CFM (402) 458-5948
Olsson Associates CHubbard@oaconsulting.com

Vice Chair:

Paul Woodward, CFM (402) 444-6222
P-MRNRD pwoodward@papionrd.org

Second Vice Chair:

Bill Jones, CFM (402) 471-3932
Nebraska DNR bjones@dnr.state.ne.us

Secretary:

John Cambridge, CFM (402) 323-6221
HDR Engineering, Inc. John.Cambridge@hdrinc.com

Treasurer:

Laurie Carrette Zook, CFM (402) 399-1078
HDR Engineering, Inc. Laurie.Carrette@hdrinc.com

Board Member:

Nicole Fleck-Tooze, CFM (402) 441-6173
Lincoln Public Works and Utilities Dept. NTooze@ci.lincoln.ne.us

Board Member:

LeAnn Klein (308) 233-5640
Buffalo County Lklein@Buffalogov.org

FROM THE EDITOR

Please submit newsletter articles to Bill Jones via email at bjones@dnr.state.ne.us or mail them to Bill Jones. The deadline for the Summer 2005 newsletter is June 1, 2005.

NeFSMA is on the web at www.nefsma.net.

CALENDAR OF EVENTS

April 21, 2005	NPDES: A Roadmap for Nebraska's Phase II Communities CPNRD offices, Grand Island, NE
Summer 2005	NFIP Letter of Map Revision Seminar
June 12-17, 2005	ASFPM Annual Conference Madison, WS
August 2005	NeFSMA Annual Conference TBA