

August 23, 2006

Richard L. Skinner  
Inspector General  
Office of the Inspector General  
Department of Homeland Security  
Washington, DC 20528  
Attn: Office of Inspector General

Thomas F. Gimble  
Acting Inspector General  
Office of the Inspector general  
Department of Defense  
400 Army Navy Drive  
Arlington, VA 22202-4704

**Re: Development Issues in Florida vis-à-vis Hurricane Evacuation Plans**

Dear General Skinner and Acting General Gimble:

I am writing to you on behalf of Public Employees for Environmental Responsibility (PEER) to ask your offices' assistance on a pressing matter facing the State of Florida. The issue involves the continued accelerated growth of development in Florida and the adverse effects that this growth will have upon the ability to evacuate residents and tourists faced with an approaching major hurricane.

As you are no doubt aware, the generally accepted view of meteorologists is that we are in a cycle of not only an increased frequency of hurricanes, but also an increased frequency of major, i.e. Category 3, 4 or 5, hurricanes. This places all southern coastal states at greater risk, but Florida stands out in that regard given (1) its geographical exposure to such storms, and (2) the number of miles of coastline that encompass the state. It is this vulnerability that has caused many people to become increasingly concerned about the effects of increased development throughout the state should Florida be struck by a major storm.

It was this concern over the continued development of wetland areas that prompted the issuance of Executive Order 11988 on May 24, 1977, almost three decades ago. This order remains in effect today. It sets the national policy of minimizing building in or around floodplains. Section 1 of the order states that:

Each agency shall provide leadership and shall take action **to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities** for (1) acquiring, managing, and disposing of Federal lands, and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.  
(Emphasis added)

Section 2 further requires that “each agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain...” Agencies were then tasked, under Section 2(c) of the order, with the following responsibility:

**c) Each agency shall take floodplain management into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved.** Agencies shall include adequate provision for the evaluation and consideration of flood hazards in the regulations and operating procedures for the licenses, permits, loan or grants-in-aid programs that they administer. Agencies shall also encourage and provide appropriate guidance to applicants to evaluate the effects of their proposals in floodplains prior to submitting applications for Federal licenses, permits, loans or grants.  
(Emphasis added)

Thus, it can be fairly said that it is the responsibility of federal agencies to ensure that any development in floodplains such as exist in Florida is restricted such that it does not jeopardize the health, safety and welfare of people in such areas. This is particularly true of wetland areas that are located near the coast and, as such, are more vulnerable to the effects of storm surge.

The two principal agencies with the greatest responsibilities for implementation of EO 11988 are the Federal Emergency Management Agency (FEMA) and the U.S. Army Corps of Engineers (ACOE). With this in mind, we direct your attention to an ongoing dispute that exists between FEMA and the ACOE. This dispute was documented in an October 23, 2001 letter from William Straw, FEMA’s Regional Environmental officer, to his Corps counterpart in Florida. This letter stated, in pertinent part:

“In summary, the current Corps permitting programs appear to be inconsistent with EO 11988 for the following reasons: The Corps appears to make no effort to determine whether proposed projects are located in the floodplain. The Corps assumes that floodplains do not exist if they have not been mapped by FEMA. The Corps fails to consider whether practicable alternatives exist to locating in the floodplain and, for projects that will be located in the floodplain, fails to consider whether the project design minimizes flood risks.”

The ACOE has, for its part, ignored the EO 11988. It continues to issue permits for development in High Hazard Areas throughout Florida. This virtually ensures rapid rises in Florida’s population, the result of which is ever increasing pressure on Florida’s ability to evacuate its residents and tourists in advance of land falling hurricanes.

In figures released on August 16, 2006, the National Hurricane Center found that the storm surge from Hurricane Katrina was as much as 19’ in Louisiana. Such storm surges are equally likely in Florida. Further, it is well documented that because of the population increases to date in Southwest Florida it would be virtually impossible to fully evacuate that part of the state in advance of a major hurricane, thus resulting in damages equal to or greater than those suffered in Louisiana last year.

Nevertheless, the ACOE continues to issue permits in these sensitive areas and bases its actions, in part, upon FEMA’s failure to map floodplains in the state. Indeed, in an email dated September 13, 2005, from Mr. John Hall, then-chief of Corps regulatory affairs in Florida, Mr. Hall stated to a private citizen that:

“[W]e found that about 1/3d of Florida didn’t have up to date flood maps or ANY flood maps, as I recall. And those that were available were not very current.” (Emphasis in original)

Thus, the excuse was that FEMA had not done its job in providing up to date flood maps to the ACOE. Thus, the ACOE believes that it was and is free to continue its policy of unrestricted issuance of permits in those areas, i.e. the areas most vulnerable in the face of land falling hurricanes.

The fact that such a position would be announced by an ACOE official only fifteen (15) days after Hurricane Katrina made landfall in Louisiana as a strong Category 3 storm is astounding. What is more astounding, however, is that to our knowledge this running feud between the two agencies continues to this day. It is nothing less than passing the buck. Meanwhile, the permits continue to be issued resulting in more development and decreased protection for the population.

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With this complaint we are asking that your agencies jointly investigate this issue as it applies to your agency and that you make recommendations for immediate improvement in the situation as the facts demand. Your joint effort in this regard, we believe, may be the key to ending the inter-agency finger pointing and lead to adoption of practices that are more protective of public safety.

Should you have any questions for us regarding this matter please feel free to contact me at (850) 877-8097.

Sincerely,

Jerry Phillips  
Director  
Florida PEER