

February 14, 2020

RE: Emergency Flood Protection Measures, Requirements, and Insurance

To Whom It May Concern:

On February 13, 2020 the National Weather Service (NWS) issued a spring 2020 flooding outlook for North Dakota. The current snowpack, coupled with above normal soil moisture at freeze-up, has many areas of North Dakota at risk for spring flooding.

Below are several options at-risk landowners and communities may pursue to protect themselves from spring flooding.

- Temporary Emergency Dams, Dikes, Diversions, and Ring Dikes
- Temporary Emergency Drains
- Flood Insurance

The above options, along with other permitting considerations, are discussed in more detail below.

Please note that if any permit or permission is required for temporary or emergency works and not obtained, FEMA, under a Federal Disaster Declaration, may withhold Federal reimbursement.

Temporary Emergency Dams, Dikes, Diversions, and Ring Dikes

All temporary dams, dikes, diversions, or ring dikes that are constructed in response to an emergency that retain, obstruct, or divert more than 50 acre-feet of water must be permitted according to North Dakota Century Code (N.D.C.C.) § 61-16.1-38 (application available for download here: http://www.swc.nd.gov/reg_approp/ConstructionPermits/). All emergency construction applications must be submitted to the State Engineer. All submitted applications will be processed according to North Dakota Administrative Code (N.D.A.C.) § 89-08-02-04. All issued emergency construction permits will be valid for six-months. For more information about the emergency drainage permitting processes, please contact the Engineering and Permitting Section Manager, Matt Lindsay, at (701) 328-4949 or mlindsay@nd.gov.

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Temporary Emergency Drainage

All emergency drainage of a pond, slough, lake, sheetwater, or any series thereof, which has a watershed area of 80 acres or more, must be permitted according to N.D.C.C. § 61-32-03 (application available for download here: http://www.swc.nd.gov/reg_approp/drainagepermits/). All emergency drain applications are to be submitted to the State Engineer and simultaneously to the Water Resource District in which the majority of contributing area to the proposed drain is located. All submitted applications will be processed according to N.D.A.C. §§ 89-02-05.1-06 and 89-02-05.1-07. All issued emergency drain permits will be valid for six-months. For more information about the emergency drainage permitting processes, please contact the Engineering and Permitting Section Manager, Matt Lindsay, at (701) 328-4949 or mlindsay@nd.gov.

Flood Insurance

In participating communities, homeowners, renters, and business owners can financially protect their property from flood damage through the National Flood Insurance Program (NFIP). Typically, there is a 30-day waiting period from date of purchase before a policy goes into effect. For more information, contact your insurance agent or visit <https://www.floodsmart.gov>.

ND Risk Assessment Map Service (NDRAM)

NDRAM allows users to zoom in and visually display current flood risk, both approximate floodplains from Base Level Engineering and effective regulatory floodplains from FEMA's NFIP (where digital data exists). This new tool also provides users water surface elevations, flood depths, and the ability to download engineering model data and print customized maps making it useful for planning, mitigations, and disaster recovery actions. Visit <https://ndram.swc.nd.gov> to get a better understanding of your flood risk.

Development in the Floodway

Any development proposed in a designated floodway is subject to the State Engineer's review per N.D.C.C. § 61-16.2-14. Accordingly, development will be reviewed to ensure compliance with state and federal laws regarding the National Flood Insurance Program (NFIP). Furthermore, 44 CFR 60.3(d)(3) prohibits encroachment within an adopted regulatory floodway unless the proposed use would not result in any increase in flood levels during the occurrence of the base flood discharge. For more information regarding the NFIP or development in a floodway, please contact the State NFIP Coordinator, Dionne Haynes, at (701) 328-4961 or dfhaynes@nd.gov.

Sovereign Lands

Any temporary or emergency work beneath the ordinary high water mark on North Dakota Sovereign Lands (as defined in N.D.C.C. § 61-33-01) could have sovereign lands permit implications. For more information about the sovereign lands permitting process, please contact the state Sovereign Lands Manager, Jerry Heiser, at (701) 328-4935 or gheiser@nd.gov.

My office understands protection measures in response to a flooding threat can be unpredictable. We are here to answer your questions and serve as a reliable resource. If there are any questions

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beyond what is referenced above, please contact the Regulatory Division Director, Aaron Carranza, at (701) 328-4813 or acarranza@nd.gov.

Sincerely,

Garland Erbele, P.E.

State Engineer

GE:JP:AC:pp/1431-19

Enclosures

cc: ND Department of Emergency Services
ND Water Resource Districts
Association of Counties
Floodplain Administrators
League of Cities