



April 19, 2023

Federal Emergency Management Agency

**RE: DOCKET ID # FEMA-2023-0007
FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)**

Dear FEMA Staff:

Thank you for the opportunity to review and comment on the above-referenced item. The City of Warrenton has reviewed the presented materials regarding the proposed Environmental Impact Statement (EIS) for the implementation of the plan for National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) Integration in Oregon:

- The City of Warrenton currently contracts with Clatsop County to manage the development and permitting process for our flood plain areas. We do not have the staffing ability to provide that service with our current staffing levels. The new requirements for analysis of flood storage capacity and habitat preservation is beyond the capacity of an already stretched planning and public works departments.
- Much of our city is located within the 100 year flood plain and our historical development patterns include residential, commercial and industrial developments in the flood plain. These changes will have a significant impact on our ability to complete any of our planned development of these areas.
- The four paths identified in the Implementation Plan have not been fully-developed, leaving local governments to provide comments on items that have not been produced, reviewed or vetted for potential implementation costs. Specifically:
 - A model ordinance has not yet been developed or provided for public comment and review. Without this opportunity, local governments are unable to fully know the potential impacts of the implementing the plan nor the costs associated with those implementation measures.
 - In order to implement paths 3 or 4 of the draft implementation plan, it appears that local jurisdictions would need to expend significant funds (which we do not have) to obtain technical expertise to complete either a compliance plan or a habitat conservation plan. These unknown costs would likely force small and/or rural local governments into “choosing” either path 1 or path 2. This is not truly a choice.

- It is not clear whether such a radical change in development standards has been given adequate consideration by the Oregon Department of Land Conservation and Development. We do not have any direction that the municipal urban growth boundaries (UGB) will be allowed to adjust to accommodate for lot development lands within our current UGB
- The proposed reporting requirements for local communities will require additional staff time, constituting an unfunded mandate. The reporting requirements proposed in RPA Element 5 of the implementation plan would require local governments to either collect and analyze data that most staff members are not trained to do (ex: identify the amount of compensatory storage measured by volume and area; the change in timing, velocity or peak flows of stormwater runoff due to new impervious surfaces, etc.). Conversely, local governments could require applicants to provide this analysis, which will significantly increase development costs and times. Additionally, because the final reporting tool has not been developed or tested, it is unsure how long it will take local government staff to compile and input the required information, potentially diverting staff resources from other state-mandates such as housing.
- The implementation plan does not clearly identify what entity determines the quantity and quality of mitigation required.
- Implementation of the plan will likely result in “takings” claims by local property owners, as the proposed plan will severely restrict or completely prohibit development in the Special Flood Hazard Area. This will create additional legal costs for both local governments and property owners. To date, no state or federal funding or assistance has been proposed to assist local governments with those potential future lawsuits.
- Many of the proposed mitigation or implementation measures that are encouraged in the plan would also require local governments to expend significant monetary or staff resources to develop stormwater regulations, design manuals, etc. It is unclear from recent public meetings with technical or financial assistance would be made available to small and rural jurisdictions that do not have the capacity to develop such tools.

The City of Warrenton agrees with the strong concerns expressed by Clatsop County and other north Oregon coastal communities. As it is currently drafted, the plan will generate substantial financial expenditures and draw on already maximized staff capacities - costs that will primarily be borne by local governments with limited technical and financial assistance from state or federal agencies. The likelihood of increased litigation will impact jurisdictions’ fiscal capacity and increase development costs for property owners.

The City of Warrenton does not support the proposal as it currently stands.

Sincerely,

Mayor Henry Balensifer