



STATE OF  
COLORADO

Fead - DNR, Terri <terri.fead@state.co.us>

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## Floodplain Rules and Regulations

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Jeff Rice <JeffRice@elpasoco.com>

Mon, Jul 26, 2021 at 4:39 PM

To: "Fead - DNR, Terri" <terri.fead@state.co.us>

Cc: Marta Blanco Castano - DNR <marta.blancocastano@state.co.us>, "keith@pprbd.org" <keith@pprbd.org>

Hi Terri,

I hope the timing of these questions is in line with the proposed revisions to the state floodplain rules and regulations. I wasn't sure who to send them to, but since I've been involved in the floodplain updates with you and Marta, I hope you can route them where they need to go.

Clarification on the intent of "publicly maintained" may be helpful in some circumstances, specifically a definition of that for Rule 9, Sections B and C.

Is the intent to match Rule 10 C, that lists "Community, State, or Federal government" being responsible for maintenance and operations (of levees)? In El Paso County we have a lot of metropolitan districts (associated with land development) that may be considered "public," but some may not be in a financial position to maintain facilities they own. For a definition, could "publicly maintained" mean by a Community, State, or Federal government, or a Metropolitan District established for the purposes of drainage facility maintenance and construction (rather than a developer district)?

Also, for written maintenance agreements should there be additional guidance, maybe not in the Rules, to clarify the required responsibilities of the public entity? For example, the standard El Paso County maintenance agreements do not "require" the County to maintain a facility if the owner does not, per this language:

"... the creation of the easement does not expressly or implicitly impose on the County a duty to so inspect, clean, repair or maintain the onsite Stormwater Facilities or any appurtenant improvements."

"Notwithstanding the foregoing, this Agreement does not expressly or implicitly impose on the County a duty to inspect, construct, clean, repair or maintain the Stormwater Facilities."

Would this cause potential issues in a floodplain delineation study with many privately-owned full-spectrum detention facilities in a drainage basin (the current standard for land development)?

Hopefully I've described these concerns well enough – let me know if I can clarify anything.

Thanks!

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