THROUGHOUT HISTORY IT HAS BEEN THE INACTION OF THOSE WHO COULD HAVE ACTED, THE INDIFFERENCE OF THOSE WHO SHOULD HAVE KNOWN BETTER, THE SILENCE OF THE VOICE OF JUSTICE WHEN IT MATTERED MOST, THAT HAVE MADE IT POSSIBLE FOR EVIL TO TRIUMPH.

— Haile Selassie
LAMONT: THE TOWN THAT FEMA FORGOT

or

“Help I’ve fallen, and I don’t know which way is up”

- NFIP
Presented by: Clark Farr, RCE (Retired...sort of)
... A.K.A. Don Quixote
... A.K.A. Don Quixote

... NOT a Lawyer
... A.K.A. Don Quixote

... NOT a Lawyer

... Likely Insane
What’s the Issue?
The Town of Lamont is being flooded more frequently and more severely as a direct result of man-made alterations to the Caliente Creek Floodplain.

...FARMER LEVEES
AREA FLOODED BY 1,000 CFS
NO LEVEES

Peak Flow
25 cfs
AREA FLOODED BY 1,000 CFS WITH LEVEES

Peak Flow: 409 cfs
AREA FLOODED BY 1% AEP
NO LEVEES
AREA FLOODED BY 1% AEP
NO LEVEES
How is this being allowed?
• Kern County REFUSES to administer its Floodplain Manage Ordinance on its Farming Community
• CaDWR, which has oversite responsibility, REFUSES to require proper County administration,
• FEMA REFUSES acknowledge the problem (even allowing Kern County to maintain its Class 7 CRS Rating)
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KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.030 Findings of Fact (B.); “These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities...”
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.040 Statement of Purpose (E.); “To minimize damage to public facilities and utilities such as... streets and bridges located in areas of special flood hazard.”
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.040 Statement of Purpose (H.); “To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions”
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.050 Methods of Reducing Flood Losses (A.); “Restricting or prohibiting uses which are dangerous to health, safety, and property loss due to water or erosion hazards, or which result in damaging increase in erosion or in flood heights or velocities”
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.050 Methods of Reducing Flood Losses (C.); “Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters”
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.050 Methods of Reducing Flood Losses (D.);
  “Controlling filling, grading, dredging, and other development which may increase flood damage”
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.050 Methods of Reducing Flood Losses (E.); “Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards in other areas”
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.060 Definitions (P.); “Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

• See 44 CFR Part 59, Subpart A, §59.1 Definitions: “Development”
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.060 Definitions (Q.); “Encroachment” means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures, or development into a floodplain which may impede or alter the flow capacity of a floodplain.

• Related to See 44 CFR Part 60, Subpart A, §60.3 (c)(10)
• §17.48.090 Compliance; “No Structure or land shall hereafter be constructed, located, extended, converted, altered, or substantially improved nor shall land be graded for development without full compliance with the terms of the chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the Floodplain Administrator from taking such lawful action as is necessary to prevent or remedy any violation.”
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.100 Abrogation and Greater Restrictions; “This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.”

• See 44 CFR Part 60, Subpart A, §60.1 (b)
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.140 Establishment of Development Permit; “A development permit shall be obtained before any construction or other development begins within any area of special flood hazards...”

• See 44 CFR Part 60, Subpart A, §60.3 (b)(1)
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.140 Establishment of Development Permit (D.); “Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.”

• See 44 CFR Part 60, Subpart A, §60.3 (b)(7)
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.180 Permit Review (A.); “Review of all permits to determine that the permit requirements of this chapter have been satisfied”

• See 44 CFR Part 60, Subpart A, §60.3 (c)(1)
KERN COUNTY FLOODPLAIN MANAGEMENT ORDINANCE:

• §17.48.180 Permit Review (D.); “The proposed development does not adversely affect the carrying capacity of the special flood hazard area. For purposes of this chapter, in areas where “Floodways” have not been designated, “Adversely affects” means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood more than one foot at any point.”

• See 44 CFR Part 60, Subpart A, §60.3 (c)(10)
KERN COUNTY GRADING ORDINANCE:

• §17.28.040 Permits Required (B. Exempted Work) (10.): “Accepted agricultural activities, including routine mowing, plowing, ditching, harrowing, diskng, ridging, leveling, and other similar operations necessary to prepare a field or crop for production.”
A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Administrator of the changes by submitting technical or scientific data in accordance with this part. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.
§12.16.020 - Permit required—Exceptions A. It is unlawful for any person, firm or corporation to dig in, excavate, plow up, tear up, fill, cover, disturb or change any part of the portion of any public highway in the county, or to place any obstruction or pile any material on the surface of any highway, without first obtaining a permit therefor, and doing such work in the manner as provided in this chapter.
CALIFORNIA PENAL CODE, PART 1, TITLE 10, SECTION 370:

• Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance.
Why doesn’t the County protect its residents?
• Power Politics: MONEY, the Farmers have it. The residents of Lamont don’t.

• The Public Works Director told a Public Meeting that if he tried to enforce the removal of the levees he’d be fired.

• Grimmway has threatened to move its operations to Arizona
• Power Politics: MONEY

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Grimmway Farms

Cut & Peeled Baby Carrots

NO PRESERVATIVES

READY TO EAT

NET WT 16 OZ (1 LB) 454g

USDA ORGANIC

BEST TASTE AWARD 2008

CHEFSBEST EXCELLENCE AWARD
Why is CaDWR refusing to carry out their responsibilities?
CaDWR has informed Kern County:

• Farmer diversion Levees are a problem all over the valley,
• They don’t enforce the regulations anywhere else, so they won’t enforce them in Kern County
So, What’s FEMA’s excuse for failing to support the NFIP?
• Power Politics: Kevin McCarthy

• When it comes to knowing their jobs (I believe) that FEMA doesn’t know the difference between Road Apples and Biscuits anymore.
EXAMPLE #1

Two years ago at the FMA Conference, I was told by a FEMA representative that FEMA does not care about flows less than the 1% AEP (100 year)
The NFIP actuarial rates are (should be) based upon the cumulative area, up to 99%
EXAMPLE #2

Two years ago at the FMA Conference, I was told by a FEMA representative that I, a third party, must determine the 100-year altered floodplain.
Third party advocates must develop the 100-year flood impacts for FEMA to become interested illegal floodplain encroachments.
KC-FMO §17.48.180
Permit Review (D.)
Requires the property owner to provide the County with an analysis of the flood impacts.

44 CFR Part 65 § 65.3
Requires the County submit changes to the floodplain to FEMA within 6 months of determination.
EXAMPLE #3

The Caliente Creek Floodplain is an Alluvial Fan and therefore there can be no Floodway. As such, encroachment consideration is mute.
Encroachments on alluvial fans mapped using FEMA’s Alluvial Fan procedures do not impact the flood designations and are therefore rendered mute.
The contour widths developed by FEMA’s Alluvial Fan Mapping procedures are based upon the 1% AEP for an un-obstructed width.

If the contour is obstructed the 1% AEP must be recalculated for the new un-obstructed width.

Example:
If the contour width was based upon the watershed 10% AEP and was 50% obstructed, the new mapped AEP flow across that contour would be the watershed 5% AEP.
DESPITE ALL MY RAGE I AM STILL JUST A RAT IN A CAGE

SMASHING PUMPKINS