



Federal Emergency Management Agency

Washington, D.C. 20472

April 5, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
APPEAL START

The Honorable Tom Farmer
Mayor, City of Benton
114 South East Street
Benton, Arkansas 72015

Community: City of Benton,
Saline County,
Arkansas
Community No.: 050192

Dear Mayor Farmer:

On October 30, 2018, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) provided your community with Preliminary copies of the revised Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for the City of Benton, Saline County, Arkansas. FEMA has posted digital copies of these revised FIRM and FIS report materials to the following Website: <https://www.fema.gov/preliminaryfloodhazarddata>.

We also request that your community make the hard copy Preliminary revised FIRM and FIS report available for review at your community's map repository located at Municipal Complex, 114 South East Street, Benton, Arkansas 72015. The Preliminary revised FIRM and FIS report include proposed flood hazard information for certain locations in the Saline County, Arkansas and Incorporated Areas. The proposed flood hazard information may include the addition or modification of Special Flood Hazard Areas, the areas that would be inundated by the base (1-percent-annual-chance) flood; base flood elevations or depths; zone designations; or regulatory floodways.

We have published a notice of the proposed flood hazard determinations in the *Federal Register* and will publish a public notification concerning the appeal process (explained below) in the *Saline Courier* on or about April 12, 2019 and April 19, 2019. We will also publish a separate notice of the flood hazard determinations on the "Flood Hazard Determinations on the Web" portion of the FEMA Website (www.fema.gov/plan/prevent/fhm/bfe). We have enclosed copies of the notice published in the *Federal Register* and the newspaper notice for your information.

These proposed flood hazard determinations, if finalized, will become the basis for the floodplain management measures that your community must adopt or show evidence of having in effect to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). However, before any new or modified flood hazard information is effective for floodplain management purposes, FEMA will provide community officials and citizens an opportunity to appeal the proposed flood hazard information presented on the Preliminary revised FIRM and FIS report posted to the above-referenced Website.

Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93-234) is intended to ensure an equitable balancing of all interests involved in the setting of flood hazard determinations. The legislation provides for an explicit process of notification and appeals for your community and for private persons prior to this office making the flood hazard determinations final.

The appeal procedure is outlined below for your information and in the enclosed document titled *Criteria for Appeals of Flood Insurance Rate Maps*.

During the 90-day appeal period following the second publication of the public notification in the above-named newspaper, any owner or lessee of real property in your community who believes his or her property rights will be adversely affected by the proposed flood hazard determinations may appeal to you, or to an agency that you publicly designate. It is important to note, however, that the sole basis for such appeals is the possession of knowledge or information indicating that the proposed flood hazard determinations are scientifically or technically incorrect. The appeal data must be submitted to FEMA during the 90-day appeal period. Only appeals of the proposed flood hazard determinations supported by scientific or technical data can be considered before FEMA makes its final flood hazard determination at the end of the 90-day appeal period.

Note that the 90-day appeal period is statutory and cannot be extended. However, FEMA also will consider comments and inquiries regarding data other than the proposed flood hazard determinations (e.g., incorrect street names, typographical errors, omissions) that are submitted during the appeal period, and will incorporate any appropriate changes to the revised FIRM and FIS report before they become effective.

If your community cannot submit scientific or technical data before the end of the 90-day appeal period, you may nevertheless submit data at any time. If warranted, FEMA will revise the FIRM and FIS report after the effective date. This means that the revised FIRM would be issued with the flood hazard information presently indicated, and flood insurance purchase requirements would be enforced accordingly, until such time as a revision could be made.

Any interested party who wishes to appeal should present the data that tend to negate or contradict our findings to you, or to an agency that you publicly delegate, in such form as you may specify. We ask that you review and consolidate any appeal data you may receive and issue a written opinion stating whether the evidence provided is sufficient to justify an official appeal by your community in its own name or on behalf of the interested parties. Whether or not your community decides to appeal, you must send copies of individual appeals and supporting data, if any, to our FEMA Regional Office in Denton, Texas at the address listed below:

Ms. Sandra Keefe
Mitigation Division Director
ATTN: Diane Howe, Appeals Coordinator
FEMA Region VI
Federal Regional Center
800 North Loop 288
Denton, Texas 76209-3698

If we do not receive an appeal or other formal comment from your community in its own name within 90 days of the second date of public notification, we will consolidate and review on their own merits such appeal data and comments from individuals that you may forward to us, and we will make such modifications to the proposed flood hazard information presented on the revised FIRM and in the revised FIS report as may be appropriate. If your community decides to appeal in its own name, all individuals'

appeal data must be consolidated into one appeal by you, because, in this event, we are required to deal only with the local government as representative of all local interests. We will send our final decision in writing to you, and we will send copies to the community floodplain administrator, each individual appellant, and the NFIP State Coordinator.

All appeal submittals will be resolved by consultation with officials of the local government involved, by an administrative hearing, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice. Use of a Scientific Resolution Panel (SRP) is also available to your community in support of the appeal resolution process when conflicting scientific or technical data are submitted during the appeal period. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. An SRP is an option after FEMA and community officials have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Please refer to the enclosed "Scientific Resolution Panels" fact sheet for additional information on this resource available to your community.

FEMA will make the reports and other information used in making the final determination available for public inspection. Until the conflict of data is resolved and the revised FIRM becomes effective, flood insurance available within your community will continue to be available under the effective NFIP map, and no person shall be denied the right to purchase the applicable level of insurance at chargeable rates.

The decision by your community to appeal, or a copy of its decision not to appeal, should be filed with this office no later than 90 days following the second publication of the flood hazard determination notice in the above-named newspaper. Your community may find it appropriate to call further attention to the proposed flood hazard determinations and to the appeal procedure by using a press release or other public notice.

If warranted by substantive changes, during the appeal period we will send you Revised Preliminary copies of the revised FIRM and FIS report. At the end of the 90-day appeal period and following the resolution of any appeals and comments, we will send you a Letter of Final Determination, which will finalize the flood hazard information presented on the revised FIRM and FIS report and will establish an effective date.

If there are further questions regarding the revised FIRM and FIS report for the community, please feel free to contact one of the Regional contacts listed below for additional assistance:

| For questions concerning: | Name | Telephone Number | Email |
|----------------------------------|-----------------------|-------------------------|------------------------------|
| Engineering/Mapping | Mr. John Bourdeau Jr. | (940) 383-7350 | john.bourdeaujr@fema.dhs.gov |
| Community Outreach | Ms. Cynthia Wirz | (940) 898-5164 | cynthia.wirz@fema.dhs.gov |
| Insurance | Mr. Gilbert Giron Jr. | (940) 383-7253 | gilbert.giron@fema.dhs.gov |
| Compliance | Mr. Prince Aryee | (940) 898-5393 | prince.aryee@fema.dhs.gov |

If you have any questions concerning mapping issues in general, please call the FEMA Map Information eXchange (FMIX) toll free at (877) 336-2627 (877-FEMA MAP), or e-mail the FMIX staff at FEMAMapSpecialist@riskmapcds.com.

Sincerely,



Luis Rodriguez, P.E., Director
Engineering and Modeling Division
Federal Insurance and Mitigation Administration

Enclosures:

Newspaper Notice
Proposed Flood Hazard Determinations *Federal Register* Notice
Criteria for Appeals of Flood Insurance Rate Maps
“Scientific Resolution Panels” Fact Sheet
Changes to FEMA’s Appeals Process

cc: Brad Jordan, Community Development Director, City of Benton
Whit Montague, NFIP State Coordinator, Arkansas Natural Resources Commission
Jennifer Moss, Deputy Regional Technical Coordinator, RSC 6 (electronic copy)

bcc: FEDD File

Provide this notification email to the distribution list provided below within 2 days of mailing the letters and posting the web notice to the public website. Along with a PDF version of the letters, newspaper notice and the Proposed Rule published in the *Federal Register*, please include the following information in the email:

- approved docket
- web notice link
- start/end date of the appeal period
- if this is a first-time countywide or a PMR update
- the affected communities (please distinguish which communities are receiving a 90-day appeal period and which communities are receiving a 90-day comment period)

Distribution List:

RSC 6 (Jennifer.moss@aecom.com)

Study Manager/Leads

Appropriate FEMA Project Monitor for the project

Appropriate FEMA Compliance Specialist for the project

Lisa Jennings (Lisa.Jennings@fema.dhs.gov) for all projects

Ron Wanhanen (Ronald.Wanhanen@fema.dhs.gov) for all Risk MAP Projects

Diane Howe (Diane.Howe@fema.dhs.gov) for all projects

Cynthia Wirz (Cynthia.Wirz@fema.dhs.gov) for all projects

Ronnie Simpson (Ronald.Simpson@fema.dhs.gov) for all Louisiana projects