South Carolina Department of
Natural Resources

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July 19, 2001

Mr. Robert F. Shea, Acting Administrator
Federal Insurance and Mitigation Administration
Federal Emergency Management Agency
500 "C" Street, SW
Washington, D.C. 20472

Dear Mr. Shea:

This responds to your July 3, 2001 letter regarding the meeting scheduled for July 24, 2001 in Atlanta to provide yet another opportunity for appellants to provide information on the appeal of the proposed Flood Insurance Rate Maps and Flood Insurance Studies for Richland and Lexington Counties, South Carolina. I want to make it clear that the South Carolina Department of Natural Resources (SCDNR) did not request a delay in the decision process for the appeal and did not ask for another chance to provide information. SCDNR believes that the requirement to make yet another presentation is superfluous and burdensome. If yet another meeting must be held, the SCDNR believes that the proper venue for such meeting should be Columbia, South Carolina, where the property, the governments and the interested parties are located. FEMA clearly established a cut off date of February 15, 2001 for all parties to submit information. We believe this deadline was more than generous. If FEMA allows any new information beyond that date SCDNR must have time to analyze the submission in detail and make a reply. The entire appeal resolution process has been irregular and unpredictable.

Your July 3, 2001 letter also requests written comments by July 20, 2001 on information submitted by other parties by your July 6, 2001 deadline. Listed below are our comments on the July 6 submission by Columbia Venture, LLC. We have also sent copies of these comments to Michael Buckley and to those on the list attached to your July 3 letter.

1) In the Introduction and Factual Background section of their submission, Columbia Venture suggests that those parties questioning the August 12, 1999 preliminary FIS and FIRM are a vocal minority either opposed to growth in general or specifically the Columbia Venture proposed development plan for the area behind the Manning Dike. Columbia Venture also questions SCDNR's standing to appeal the preliminary FIS and FIRM and suggests that SCDNR is acting as FEMA's agent in this matter and is being used by FEMA to appeal its own decision. I want to make it very clear that SCDNR's position is not based on any opposition to growth in general or to any specific development plan. We are definitely not acting as agent for FEMA and are not being used by FEMA to challenge its own actions. As we have clearly stated previously, our position in this matter is based entirely on the following: a) our obligation to fulfill our responsibilities as the designated State Coordinator for the National Flood Insurance Program in accordance with 44 CFR Section 60.3 (b)

(6) "Assist in the delineation of riverine and coastal flood-prone areas, whenever possible, and provide all relevant technical information to the Administrator," b) our intent is to ensure that the most appropriate scientific and technical information is used in preparing the studies and maps, and c) our obligation to protect archaeologically and ecologically important Heritage Trust properties on the Lexington County side of the river which are owned and managed by the SCDNR. Our overall goal is to protect the public's interest in natural resources, which include floodplains and floodways, of the State.

2) Columbia Venture indicates that FEMA's change in the floodway boundary between the August 12, 1999 map and the September 26, 2000 map was not based on data submitted by appellants because no technical data were submitted. We take exception to this statement and refer to the abundance of technical information included in our submissions in December 1999 and April 2000.

3) Columbia Venture refers to the levee improvements as part of its development plan. We believe that this information is irrelevant to the resolution of the appeal in accordance with 44 CFR §60.6.6(a)(3). Columbia Venture has been advised on numerous occasions of the procedures that will be required if Columbia Venture wishes to proceed with its development plan.

4) Columbia Venture complains that FEMA has not been responsive to requests for information and those complaints have extended the process again and again. It is our observation that FEMA has been more than generous in its responsiveness to Columbia Venture and has been overly accommodating to Columbia Venture's requests for meetings as is evident in the timetable attached to our July 2, 2001 letter to you. While Columbia Venture was insisting on private meetings with FEMA to present its case we applaud the efforts of your staff to keep the process open and fair to all appellants.

5) In the section titled <u>Legal and Regulatory Framework for Determining the Boundaries of the Regulatory Floodway</u>, Columbia Venture has invented a new definition of a regulatory floodway: "Implicit in the regulations and The FEMA Guidelines is the notion that a regulatory floodway in a riverplain is, in addition to the water surface elevation limitations set forth in 44CFR §60.3(d) (2), characterized by the following three factors: First, A floodway must provide a significant velocity corridor in a direction parallel to the river; Second, a floodway must allow for a coherent flow pattern in the context of a 100 year flood, which pattern must have a beginning and an end, by allowing the base flood discharge to return to the river; and, Third, a designated floodway must serve as an unobstructed waterway that has historically and customarily conveyed part or all of the base flood discharge." This creative attempt to disguise argument as "technical" information is outside the scope of the FEMA Regulations for appealing a flood way delineation.

6) With regard to the technical aspects of Columbia Venture's July 6 submission, we have a number of concerns about the validity and impact of the size of the modeling area and the number of data points on the model's results and accuracy. We also have concerns about Columbia Venture's representation of historical flood events along the Congaree River. We are continuing to evaluate these issues and will present our comments on them at the July 24, 2001 meeting.

Sincerely,

Alfred H. Vang
Deputy Director

AHV/jk