

### EMERGING FEDERAL POLICY THREATENS SOUTH KING COUNTY REAL ESTATE



By **Glenn J. Amster**  
**Lane Powell**

The GA Committee has been following several important changes related

to floodplains and floodplain development over the last year that have the potential to dramatically impact properties around the Green River in south King County.

Most of the media has focused on the vulnerability of the Howard Hanson Dam and the potential for flooding in the Kent Valley in the event of a breach. But while that threat has been greatly reduced by ongoing repairs, even more worrisome issues remain.

By way of background, properties within a floodplain designated by the Federal Emergency Management Agency (FEMA) are subject to several additional layers of rules, regulations and constraints. Perhaps the most important example is the requirement that all new or substantially redeveloped (i.e., improvements costing more than 50% of value) buildings in the floodplain be elevated or flood-proofed to at least one foot above the base flood elevation. Most buildings in Kent, Tukwila, Renton and Auburn do not meet this standard.

Prior to 2007, these properties were considered outside the floodplain because man-made levees kept the river from flooding the valley. After Katrina, however, FEMA began a survey of levee systems nationwide and determined that those holding back the Green River didn't meet its standards. Drafts of floodplain map revisions resulting from the "decertification" of the levees showed virtually the entire Kent Valley in the floodplain. Fortunately, local and state governments are working to repair the levees to meet FEMA standards.

But that is not the end of the story.

To compound the import of the proposed expansion of the floodplain designations, FEMA has been compelled by lawsuits brought by environmental organizations in various places around the country to evaluate the impact of its floodplain programs on endangered species; notably, here in Puget Sound, salmon and Orca whales.

Agency consultation with the National Marine Fisheries Service (NMFS) resulted in a Biological Opinion that FEMA's floodplain program does allow some development in the floodplain and thus poses a threat to the habitat of these species.

The opinion compels South King County jurisdictions to adopt even more

stringent restrictions on development and redevelopment in the floodplain or face liability under the Endangered Species Act. The recommended strategies for addressing the problem include greatly enlarged setbacks from the Green River, substantially reducing allowable impervious surface, increasing minimum lot sizes, requiring compensatory mitigation on a 1:1 basis for any portion of the property filled to achieve flood-proofing, and several others of varying degrees of severity.

NAIOP members are working with representatives of the Association of Washington Business (AWB) and others to convince FEMA and NMFS that the current range of alternatives is impractical and would have a devastating impact on the region's economy.

The Kent Valley includes the largest single manufacturing, warehouse and distribution center in the Northwest. The proposed restrictions would severely impact not only the businesses located in the area, but also hundreds of businesses throughout the region and local governments that depend on them.

The GA Committee is actively engaged on this issue. For further information, contact [Glenn Amster](#), NAIOP GA Committee board liaison.