

Performance Audit

Legislative Joint Auditing Committee

February 13, 2009

Levee District Oversight

Arkansas Natural Resources Commission

INTRODUCTION

Rainfall events in early 2008 caused significant flooding throughout the State and raised questions about the ownership and maintenance responsibilities of flood control structures. This report is provided to assist in understanding the operation of levee districts and their importance to the State's floodplain management.

OBJECTIVES

Our objectives were to determine:

- The number and location of levee districts within the State;
- Who has oversight and maintenance responsibility for levee districts;
- Funding methods for levee districts; and
- How levees are certified for inclusion in the Federal Emergency Management Agency (FEMA) National Flood Insurance Program.

SCOPE AND METHODOLOGY

This audit was conducted for the period July 1, 2007 through June 30, 2008. We reviewed applicable laws related to floodplain management programs and levee districts. We interviewed representatives from levee districts and local and state government regarding oversight and interaction among all parties. Further, we attempted to obtain information regarding maintenance and operations and the districts' latest inspection report rating for 11 selected levees (9 local levee districts participating in a federal levee program and 2 privately owned levees participating in neither a district or a federal levee program). A summary of the information by levee is provided in **Schedule 1 on page 9**.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BACKGROUND

Levees are man-made structures designed to contain, control, or divert the flow of water to provide protection from temporary flooding. Levees provide a specific level of protection and can be overtopped or fail in large

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POINTS OF INTEREST:

- *The number and location of all levee districts within the State could not be determined. A central inventory of levees is not maintained in part because Ark. Code Ann. § 15-24-102(c) prohibits the Arkansas Natural Resources Commission from requiring reports from levee districts. (Page 3)*
- *City/County officials have no authority over levee districts and the Arkansas Code expressly prohibits Arkansas Natural Resources Commission (ANRC) from taking oversight of unmaintained levees. (Page 4)*
- *Although public funding is provided to levee districts, requirements for annual audits or accountability for the expenditures of funds vary or are nonexistent depending on the Acts under which the districts were created. (Page 6)*
- *Seven of the eleven levees reviewed currently have proper accreditation and certification for national flood insurance participation. However, one of the seven certified levees was rated by the Army Corps of Engineers as “unacceptable” and their continued certification is currently in jeopardy. (Page 7)*

flood events. When levees fail, the damage may be more significant than if the levee was not present. There are three categories of levees:

- Levees in a federal levee program;
- Levees in a local levee district but not part of a federal levee program; and
- Private levees neither in a federal levee program nor a local levee district.

The report will primarily focus on the latter two categories. **Exhibit I** details federal levee programs.

Attention to levee systems in the lower Mississippi Valley became paramount after the death and widespread destruction from the flood of 1927. Thousands of individuals were left homeless and over 1,000 people are estimated to have died of drowning, disease, and exposure. Local levee districts began to be created around the State by various acts of the General Assembly, county ordinances, and circuit court orders. Many of the acts passed by the General Assembly were not codified and with the passage of time no longer can be located by the districts, creating uncertainty as to which laws govern which levee districts. As a result, Arkansas is served by a patchwork of district and privately owned levees with no central oversight of the flood control structures.



Properly functioning levee



Breached levee

Levee Districts

Levee districts have the responsibility to ensure levee structures are maintained to work as intended during a high water event and are operated by a Board of Directors made up of property holders within the protected area of the structure. The districts' sole responsibility is to the property owners within their district. State and local

government officials have no oversight or control over the maintenance and operating status of the districts' flood control structures. Districts are expressly exempt by Ark. Code Ann. § 15-24-102(c) from state oversight, except for voluntary agreements, and may not be forced to maintain levees.

Private Levees

Private landowners may also construct levees to protect their personal property from high water events. There is no oversight of private levees unless a city/county ordinance is in place addressing their construction and/or operation.

Floodplain Management Programs

Floodplain management programs are another component of the levee system. Unrelated to levee districts, floodplain management programs are created through the adoption of city/county government flood control ordinances. The ordinances help mitigate or eliminate damages to structures through building codes and permits by preventing structures from being built in high-risk areas for flooding or requiring additional construction standards be met. However,

the intended results of the ordinances may be nullified if a levee district within the city/county's boundaries does not properly maintain and operate its levees. As a consequence of a levee district's failure to maintain and operate its levees, a city/county could permit construction based on a faulty levee. This may result in additional burden and expense to landowners within the levee districts as well as to state and local officials in the event an emergency management response is required.

Arkansas Natural Resources Commission

The Arkansas Natural Resources Commission (ANRC) is the final component of the levee system. ANRC serves as the coordinating agent between the local and federal government. However, Ark. Code Ann. § 15-24-102(c) specifically disallows ANRC from exercising any control or authority over levee districts or requiring reports from them.

LEVEE DISTRICT LISTING

The number and location of all levee districts and private levees within the State could not

Exhibit I

Levees Eligible to Participate in a Federal Levee Program

Levees properly maintained and operated according to Army Corps of Engineers standards are eligible to participate in the following federal levee programs:

- **Inspection of Completed Works (ICW)** - a periodic inspection program; and
- **Rehabilitation and Inspection Program (RIP)** - a periodic inspection program of non-federal projects if requested by the local sponsor.

Compliance with a federal levee program allows property owners protected by the inspected flood control structures to be eligible for the National Flood Insurance Program administered by Federal Emergency Management Agency (FEMA).

be determined. The effort to compile a complete levee listing revealed that no state agency has been charged to maintain a central registry for such districts. ANRC has compiled a listing of levee districts with a taxing unit assigned by the local county assessor; however, the listing was determined to be incomplete. Specifically, private levee projects not receiving tax revenues were omitted. Further, one of the levee districts selected for audit review could not be contacted because the contact information retained by ANRC was out-of-date. A central inventory of levees is not maintained in part because, as previously stated, Ark. Code Ann. § 15-24-102 prohibits ANRC from requiring information from the districts.

The Army Corps of Engineers was also contacted in an attempt to obtain a listing of levees within the State. The Corps maintains an inventory of only the levees that are currently participating or have participated in a federal levee program. For the three Army Corps of Engineers districts that operate in the State, we were only able to obtain a listing of levees from the Little Rock District and the Memphis District. The Vicksburg District did not provide a levee listing for inclusion in this report. The listings provided are included in **Appendix A**.

A comprehensive listing of levees within the State is a vital first step in assuring levees are operational and meet sound engineering standards. In addition, a listing is necessary for proper emergency response planning because the mere existence of a levee unknown to government officials may have the consequence of unexpectedly diverting water onto other property.

We recommend the General Assembly consider revising Ark. Code Ann. § 15-24-102 to require ANRC to:

1. Create and maintain a complete listing of all levees within the State; and
2. Develop procedures to approve the construction of and register new levees over a determined size.

Management Response:

ANRC concurs. Creation of any of the new duties recommended for the ANRC would also require amendment of Ark. Code Ann. § 15-24-102 to eliminate the current prohibitions against the agency's exercise of any authority or jurisdiction over, or requirement of any reports from levee or drainage districts. Draft recommendations of the National Committee on Levee Safety are currently being reviewed by the US Office of Management and Budget. These national recommendations include provisions that would be complemented in Arkansas by the recommendations contained in the Legislative Joint Auditing Committee. In addition, to obtain the maximum benefit from an inventory, the location, profiles, and cross sections of levees should also be included.

LEVEE MAINTENANCE AND INSPECTION PROCESS

City/County officials have no authority over levees in a levee district because districts are political subdivisions of the State and ANRC is expressly prohibited by Ark. Code Ann. § 15-24-102(c) from taking oversight of unmaintained levees that are part of a local levee district. **Exhibit II** illustrates the oversight authority for districts by entity.

Levee districts are responsible for ensuring the effective operation of flood control structures under their authority by performing preventative maintenance and periodic inspections. Failure to do so may contribute to the catastrophic failure of a structure. Districts operate and maintain levees through slope stabilization, access restrictions, slope drainage, levee crown maintenance, and other minor repairs. Structures passing through a levee, such as flood control gates opened or closed during high water events, must be maintained and kept in proper working order. Levees not participating in a federal levee program have no outside reviews of their structures. Two of the eleven levees included in the audit sample are private levees not participating in a federal levee program and no inspection has been performed.

Federal Program Levees

The Army Corps of Engineers provides inspections for levees participating in a federal levee program. Annual inspections identify maintenance actions required on the levee through three ratings:

- Acceptable,
- Minimally acceptable, or
- Unacceptable.

Levees receiving minimally acceptable ratings must provide the Corps a corrective action plan with a timetable addressing the deficiencies within 90 days of receiving the rating. The district is eligible for rehabilitation funding and remains eligible if all corrections are made within two years of the minimally acceptable rating. Levees receiving an unacceptable rating have a 45-day correction

period. Afterwards, the Corps performs a follow-up inspection and determines a final project rating.

If the final project rating is unacceptable, the structure is considered inactive, is not eligible for rehabilitation funding, and is reported to FEMA for flood map revision. The flood map revision will reflect the area once protected by the levee is now at an increased risk of flooding.

Although the Army Corps of Engineers provides physical inspections for levees choosing to participate in a federal levee program, the Corps has no authority to operate or force maintenance repairs on a levee controlled at the local level. While Ark. Code Ann. § 14-120-704 authorizes the Corps to notify the Arkansas Attorney General of any levees failing to meet

Exhibit II

Description of Levee Categories and Identification of Agent with Oversight Authority by Category

		<u>Agent with Oversight Authority of Levees by Category</u>			
<u>Levees</u>	<u>Description</u>	<u>Army Corps of Engineers</u>	<u>Arkansas Natural Resources Commission</u>	<u>City/County Governments</u>	<u>Local Levee Districts</u>
Category 1	Levees in a federal levee program <i>Federally or privately built, inspections performed by the Army Corps of Engineers.</i>	✓			✓
Category 2	Levees in a local levee district but not part of a federal levee program <i>Levees never accepted, withdrawn, or suspended from a federal levee program. Arkansas Code provides no state or local government oversight.</i>				✓
Category 3	Private levees neither in a federal levee program nor in a levee district <i>Privately built and typically for the benefit of the individual property owner.</i>			✓	

inspection standards in order to allow the Arkansas Attorney General to file suit against the district to force maintenance actions, a state law cannot compel a federal agency to act. During the course of the audit, a levee was noted in a levee district that had failed its Army Corps of Engineers inspection but this did not result in notification to the Arkansas Attorney General and therefore the Attorney General is not authorized to take action to force maintenance. To date, no action has been taken to remedy the maintenance issues identified at the levee.

Arkansas Code

Omissions in Arkansas Code result in the following:

- Levees not participating in a federal program receive no physical inspection and therefore may become unknowingly ineffective;
- ANRC, the agency responsible for the state floodplain management, has no knowledge of the maintenance status of levees being relied upon in developing the State floodplain management program;
- Action to force a levee district to take necessary action to correct maintenance issues can only be performed by the Arkansas Attorney General after a letter is provided by the Army Corps of Engineers noting the deficiencies; and
- Property owners of districts who do not conduct proper maintenance or residents relying on actions of levees owned by private individuals are at a greater risk for flooding and disqualification from federal flood relief programs.

We recommend the General Assembly consider legislation:

1. Designating a standard structure for each levee district’s board and providing for a uniform appointment or election process for each member;
2. Directing ANRC to develop standards



Crown and access road maintenance is performed on a levee.

- for levee maintenance and inspection procedures and rating systems for private levees and levees within a district that are not currently participating in a federal levee program;
3. Requiring levees to report to ANRC the maintenance and inspection status of their levees whether or not they are in a federal levee program; and
4. Revising Ark. Code Ann. § 14-120-704 authorizing ANRC to notify the Arkansas Attorney General when levees are not properly maintained in accordance with prescribed standards whether or not they are in a federal levee program.

Management Response:

ANRC concurs. In addition, annual reports including the status of the board’s members and their terms of office should also be required. Standards developed should be in compliance with national standards when they are adopted.

FUNDING AND FINANCIAL ACCOUNTABILITY

Levee districts are generally funded through taxes on properties within the boundaries of the protected area. Although public funding is provided to districts, requirements for annual audits or accountability for the expenditures of funds vary or are nonexistent depending on the Arkansas Code under which the districts were created. Projects using federal grant funding are often required to provide audited financial statements until

the payment of outstanding debt is completed.

The review of levee district financial oversight was limited to seven of the eleven levees selected for review because two of the eleven were privately owned and did not use public funds, one did not assess or collect public funds, and one was not able to be contacted. For the seven reviewed, financial audits were available at three, an additional three had compiled financial information, and one had incomplete financial information. Since there is no uniform requirement for financial accountability through audit or publication of financial records, the appropriateness of expenditures by most levee districts is not routinely reviewed.

The proper stewardship of district funds affects the ability of the district to finance necessary operation and maintenance activities to ensure the continued flood risk reduction for the area. Accountability through financial audits deters the misuse or misappropriation of public funds.

We recommend the General Assembly consider legislation authorizing ANRC to develop regulations specifying uniform financial reporting and audit requirements based on tiered criteria such as district size, revenue, or expenditures.

Management Response:
ANRC concurs.

LEVEE CERTIFICATION AND ACCREDITATION FOR NATIONAL FLOOD INSURANCE

The levee certification and accreditation process is illustrated in **Exhibit III on page 8**. Levee certification and accreditation is part of a process used by FEMA to determine risk areas for flooding and is incorporated into flood maps identifying areas with increased risk of flooding. In preparing flood maps, FEMA considers flood control structures and their maintenance status, local floodplain management programs, land elevation, and

other relevant data. The process directly affects the community's ability to participate in the National Flood Insurance Program.

FEMA's National Flood Insurance Program offers flood insurance to landowners based upon assessed risk of flooding for their property. Participation in the insurance program is voluntary. Cities/Counties may participate but are required to have a floodplain management program with enforced flood control ordinances designed to prevent new development from increasing the flood threat and protect existing buildings from anticipated flood events in areas determined to have a high risk of flooding. Cities/Counties that maintain an active floodplain management program and have certified flood control structures help reduce the risk of flooding and help lower flood insurance premium rates.

Seven of the eleven levees reviewed currently have proper accreditation and certification for national flood insurance participation. However, one of the seven certified levees was rated by the Army Corps of Engineers as "unacceptable" and their continued certification is currently in jeopardy. Two of the four levees not currently certified or accredited are private levees that are not in a levee district and are not required to be inspected.

If a district opts not to participate in the National Flood Insurance Program or is disqualified because of a levee's lack of certification, its residents are:

- Ineligible for national flood insurance;
- Not qualified for presidentially-declared national disaster flooding assistance for permanent repair and/or reconstruction; and
- Not able to acquire or construct property through VA (Veterans Affairs) and FHA (Federal Housing Authority) funding.

While participation in the National Flood Insurance Program is voluntary, ensuring

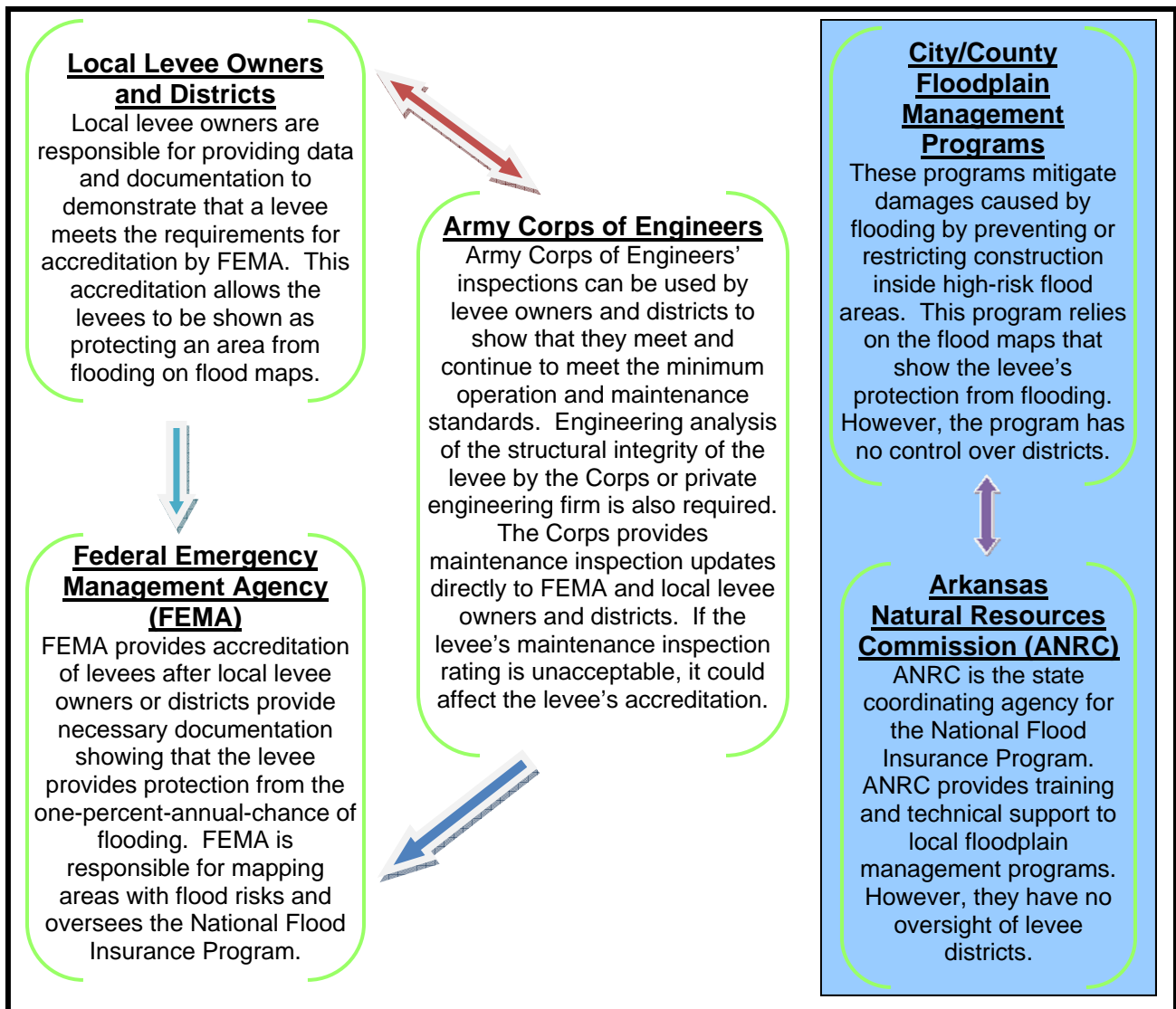
districts are properly operating and maintaining levees is crucial to protecting citizens from becoming disqualified from receiving Program benefits and reducing the potential cost to the State for flood disaster response and relief. We recommend the General Assembly consider authorizing

ANRC to develop rules and procedures prompting the annexation or merging of districts for noncompliance with accreditation requirements.

Management Response:
ANRC concurs.

Exhibit III

Levee Certification and Accreditation Process for Participating in the National Flood Insurance Program



Summary of Information
for Levees Selected for Audit
June 30, 2008

Levee	Type of Levee		Army Corps of Engineers Inspection Rating				Available Financial Data		
	District	Private	Acceptable	Minimally Acceptable	Unacceptable	Audited	Unaudited	Incomplete	
1	✓		✓				✓		
2	✓				✓				
3	✓		✓				✓		
4	✓				✓	✓			
5	✓				✓		✓		
6	✓			✓				✓	
7	✓			✓		No response from district			
8	✓		✓			✓			
9	✓		✓			✓			
10		✓	Not applicable - Private levees are not required to be inspected			Not applicable - No public funds collected			
11		✓	Not applicable - Private levees are not required to be inspected			Not applicable - No public funds collected			

Source: Army Corps of Engineers and selected local levee districts

Army Corps of Engineers Levee Rating Listing

ARMY CORPS OF ENGINEERS - MEMPHIS DISTRICT LISTING

Levee District Name	Inspection Date	Inspection Rating	Corps Remarks
Bay and St. Francis Drainage District No. 29 of Craighead Co., AR	9/25/2008	A	
Buffalo Island Drainage District #9 of Craighead County, AR	9/23/2008	A	
City of Des Arc	2/28/2008	A	
Clarendon Levee District	9/16/2008	A	
Cotton Belt Levee District No. 1	8/26/2008	A	
Drainage District No. 16 of Mississippi Co., AR	8/19/2008	A	
Drainage District No. 17 of Mississippi Co., AR	7/30/2008	M	
Drainage District No. 7 of Poinsett Co., AR	9/23/2008	M	
Eight Mile DD No. 5 of Greene County	4/22/2008	M	
Helena Improvement District	8/26/2008	A	
Laconia Drainage and Levee District of Phillips Co., AR	3/6/2008	M	
Laconia Levee District No. 1 of Desha Co., AR	8/6/2008	A	
Levee Improvement District #2 of Devalls Bluff, AR	2/28/2008	M	
Mud Slough Drainage District No. 1	4/22/2008	M	
St. Francis Drainage District of Clay & Greene Cos., AR	8/5/2008	M	
St. Francis Levee District of Arkansas	9/10/2008	A	
White River Drainage District of Phillips and Desha Cos., AR	8/26/2008	A	
White River Levee District of Woodruff, Monroe and Prairie Cos., AR	11/5/2008	A	

ARMY CORPS OF ENGINEERS - LITTLE ROCK DISTRICT LISTING

Levee District Name	Inspection Date	Inspection Rating	Corps Remarks
Baucum Drainage District	8/15/2008	U	
Carden's Bottom Drainage District. No. 2	10/9/2003	U	Note 1
Clarksville Levee & Floodwall	10/5/2005	A	
Conway County Drainage & Levee District No. 1	10/3/2005	A	
Conway County Levee District No. 3	10/28/2005	M	
Conway County Levee District No. 6	10/27/2005	A	
Conway County Levee District No. 7	10/28/2005	U	
Conway County Levee District No. 8	9/18/2004	U	
Conway County Levee District No. 10	10/29/2005	A	
Conway County Levee District No. 16	10/29/2005	A	
Crawford County Levee District	9/27/2005	U	Note 2
Dardanelle Drainage District.	10/29/2004	U	Note 1
Faulkner County Levee District No. 1	10/7/2005	M	
Ft. Smith Improvement District No. 1	10/5/2005	M	
Fourche Island Drainage District. No. 2	11/14/2005	M	
Holla Bend Fish & Wildlife Str.	10/19/2005	M	
LR Pulaski Drainage District No. 2	11/5/2008	M	
Lower Hartman Bottom Levee District (G)	10/7/2005	A	

Army Corps of Engineers Levee Rating Listing

Levee District Name	Inspection Date	Inspection Rating	Corps Remarks
McLean Bottom Levee District No. 3	10/26/2005	M	
McLean Bottom Pump Station (G)	10/31/2005	M	
NLR Levee & Floodwall	5/20/2008	M	
Old River Drainage District	9/25/2008	M	
Plum Bayou Levee District	10/6/2008	U	
Point Remove Drainage and Levee District	10/22/2003	M	
Pope County Drainage District No. 2	10/12/2005	M	
Roland Drainage District	10/26/2005	M	
Six Mile Diversion Levee (G)	10/31/2005	A	
Tucker Lake Levee and Drainage District	11/10/2008	U	
Russellville Dike & Pump Station (G)	10/5/2005	A	
Van Buren Levee District No. 1	10/11/2005	A	
Woodson Levee District	10/16/2003	M	Note 3
Massey Alexander Levee District (Formerly Jackson Co. No. 2)	5/21/2008	M	
Newport Levee District	7/16/2008	M	
Village Creek, White River & Mayberry Levee Districts	7/15/2008	M	
Batesville Levee/Floodwall	7/17/2008	A	
Big Gum Drainage District	10/12/2005	U	Note 4
Central Clay Drainage District	10/12/2005	U	Note 5
Running Water Levee District	7/23/2008	U	Note 6
Western Clay Drainage District Nos. 2 & 5	10/12/2005	U	Note 7
Okay Levee (G)	12/21/2005	M	
Honeysuckle White	10/5/2004	A	
Holla Bend Levee District No. 1	3/28/1988	U	
Holla Bend Levee District No. 2	3/28/1988	U	
Little Private Levee	4/15/1989	U	
Ormand Peters Levee	11/4/2002	M	
Perry County Levee District No. 1	3/4/1987	U	Note 8
Pulaski County Farm Levee	9/12/1988	U	Note 8
Riverdale Levee Improvement District No. 134	11/14/2005	M	
Sloan/Stallings Levee	9/27/1988	U	Note 8
Southern Enterprise Levee	3/24/1988	U	Note 8
Stallings	10/1/2003	M	
T. A. Gibson	9/12/1988	U	
Bateman Levee District. No. 3	9/13/1996	U	
Padgett Island Levee District	9/18/1997	U	Note 8
Curia Creek Drainage District	6/19/2008	U	Note 8

Army Corps of Engineers Levee Rating Listing

Levee District Name	Inspection Date	Inspection Rating	Corps Remarks
Little Red River Levee District No. 1	9/9/2004	A	
Little Red River Levee District No. 2	9/13/1996	U	Note 8
Cedar Bottom Levee District No. 2	9/18/1997	U	Note 9
Cherry Levee No. 6	9/25/1997	U	Note 9
Elskin Levee No. 9	10/30/1974	U	Note 9
Faulkner County No. 2	10/20/1974	U	Note 9
Fourche Place	10/30/1974	U	Note 9
Mehaffey Private Levee	8/30/1988	U	Note 9
Oberste Levee	11/15/1988	U	Note 9
O'Rave Levee No. 7	11/12/1974	U	Note 9
Pulaski Homestead	10/30/1974	U	Note 9
Willems Levee	12/3/1987	U	Note 9
Western Clay Drainage District No. 4	10/12/2005	U	Note 9

Note 1 - Certified Letter sent February 4, 1993 to inform of Unacceptable inspection and that the Levee will no longer be eligible for Federal Assistance under a Federal Levee Program.

Note 2 - Letter dated March 28, 2006 states all deficiencies from 2005 inspection have been addressed. Will reinspect the levee during levee certification visit.

Note 3 - No active board. The last inspection was 2002. January 2006 letter sent to Arkansas Department of Emergency Management notifying that the levee will be dropped from the Federal Levee Program.

Note 4 - Certified Letter sent to District on October 27, 1995 giving notification of Unacceptable rating and informing the District that they were no longer eligible for Federal Funds. Although some work was accomplished, the most recent inspection in 2002 still rated the levee as Unacceptable.

Note 5 - Letter dated December 2, 1992 was sent to the Central Clay Drainage District which contained the results of the annual inspection. The levee was Unacceptable and had been for a number of years. The District was notified that the levee is no longer eligible for Federal Assistance under a Federal Levee Program.

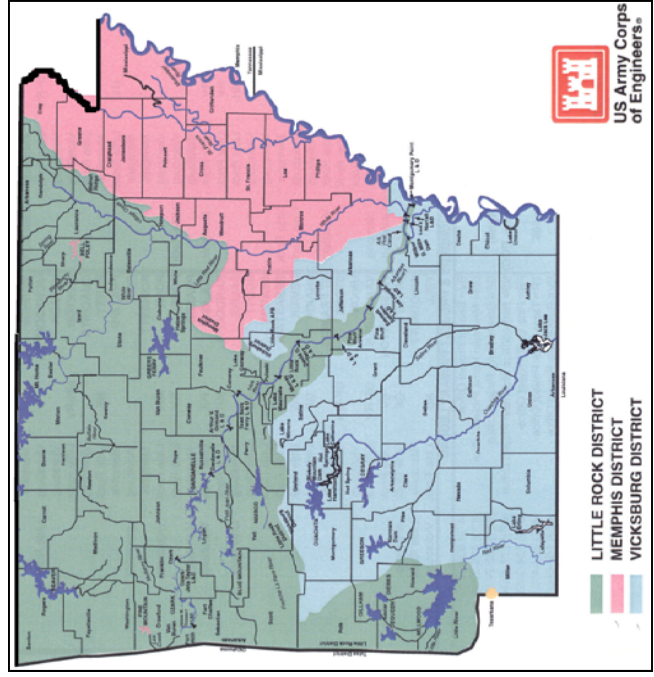
Note 6 - All positions on Levee Board are vacant. Levee District was notified in a registered letter dated December 9, 1993 that the levee received an Unacceptable rating and would be no longer eligible for Federal Assistance through a Federal Levee Program. Copies of the letter and inspection were furnished to the Arkansas Attorney General's Office for follow-up. There was interest expressed by the Randolph County Conservation District in rehabilitating the levee in 2002 but no action was taken by the Levee District.

Note 7 - District was notified in a registered letter dated December 22, 1992 that the levee received an Unacceptable rating and would be no longer eligible for Federal Assistance through a Federal Levee Program. Copies of the letter and inspection were furnished to the Arkansas Attorney General's Office for follow-up. Meetings were held in 1995 to discuss reactivation of the Levee District but no action was taken.

Note 8 - Levee has been dropped from Corps levee program.

Note 9 - Abandoned or leveled private levees.

A - Acceptable **M - Minimally acceptable** **U - Unacceptable**



The Vicksburg District did not provide a levee listing for inclusion in this report.

Related Arkansas Code

Restrictions on the Arkansas Natural Resources Commission Ark. Code Ann. § 15-24-102(c)

- (c) The commission shall have the power to acquire by donation, lease, purchase, or condemnation and to hold or own in the name of the state real and personal property, easements, and the public works erected and constructed under the authority of this subchapter except that:
- (1) None of the work, improvements, or construction provided for in the preceding portion of this section or in any other portion of this subchapter shall be done, undertaken, or performed within the boundary limits of any levee or drainage district;
 - (2) This subchapter shall not confer upon the commission or other authority any jurisdiction, control, supervision, or authority whatsoever over the lands within the boundaries of any levee or drainage district now existing or hereafter organized; and
 - (3) Further, the commission shall not have any:
 - (A) Control, authority, or jurisdiction over any such levee or drainage district, nor over the directors or commissioners of any levee or drainage districts, nor lake lands within the boundaries of any levee or drainage district as aforesaid;
 - (B) Authority to affect the existence of any levee or drainage district in any manner; or
 - (C) Power to require reports from districts nor any supervision or control over them;
 - (4) (A) However, any levee or drainage district shall have the option upon the voluntary action of its governing board to make contracts with the commission and to make compacts and contracts with the United States Government or any of its agencies and may thereby voluntarily grant to the commission general or special powers as drainage or levee districts may deem proper.
 - (B) The grant shall be limited specifically to the matters and things voluntarily agreed upon by the governing board of the districts.
 - (C) In order to become effective, the contract with the state commission shall be approved by the county court or judge in vacation, if the district is in one (1) county, and by the circuit court of the county of domicile or the judge thereof in vacation, if in more than one (1) county, and recorded on the court records.

Recourse for failure to maintain structures Ark. Code Ann. § 14-120-704.

- (a) (1) Whenever any levee or drainage district shall fail, refuse, or neglect to maintain the levee and drainage structures after completion, in compliance with the assurances given the federal government, then the United States Army Corps of Engineers may give written notice to the officers of the levee and drainage district and in the notice shall set forth the plans and specifications and estimate of cost of restoring and maintaining the structures in accordance with the assurances given.

Related Arkansas Code

- (2) The levee and drainage district shall take steps to comply with the specifications and requirements made by the United States Army Corps of Engineers within six (6) months after receiving notice.
 - (3) In the event that the levee and drainage district has not taken steps to comply therewith within the period of time above provided, then the United States Army Corps of Engineers may give written notice to the Attorney General of the State of Arkansas that the levee and drainage district has failed, refused, or neglected to comply with the requirements and upon receipt of written notice from the United States Army Corps of Engineers to the Attorney General of the State of Arkansas, then the Attorney General shall immediately bring a mandamus suit in a court of competent jurisdiction in the name of the State of Arkansas against the officers, commissioners, or directors of the levee and drainage district in the county in which the domicile of the district is situated. However, in the mandamus proceedings, if it is shown that the district has insufficient funds to meet and fulfill these requirements, then it shall be deemed a compliance with this subchapter if the district has taken steps to assess and levy a sufficient maintenance tax.
- (b) (1) Where the board of commissioners of a drainage or levee district has indicated by resolution that it will not comply with the specifications and requirements contained in the notice of the United States Army Corps of Engineers, the Attorney General may immediately, in lieu of a mandamus proceeding against the commissioners of the district, bring an action and take other necessary legal steps in the proper local court, or courts, in the name of the State of Arkansas against the delinquent levee or drainage district, or subdivision thereof, or the board of commissioners thereof to effectuate, in the manner now provided by law, the assessment, reassessment, extension, or collection of a sufficient annual tax upon the real property in the levee or drainage district to enable the performance of the assurances given to the federal government.
- (2) The Attorney General may also bring the action where the board of commissioners has failed to perform the assurances after the giving of the notice above specified.

