



FEMA

W-09033

June 16, 2009

MEMORANDUM FOR: Write Your Own (WYO) Company Principal Coordinators, the National Flood Insurance Program (NFIP) Servicing Agent, and Selected Adjusting Firms

FROM: 
Edward L. Connor
Acting Federal Insurance Administrator
National Flood Insurance Program

SUBJECT: Policy Issuance: Notice of FEMA's Adjusted Position Regarding NFIP Insured Buildings in Eligible Communities Subject to Continuous Lake Flooding Caused by the Closed Basin Lake, Devil's Lake, North Dakota.

The only Closed Basin Lake recognized by FEMA is Devil's Lake, North Dakota. A recent official National Weather Service (NWS) still-water lake level forecast has compelled FEMA to offer further guidance regarding NFIP flood insurance coverage at Devil's Lake.

NFIP flood insurance coverage for Continuous Lake Flooding caused by the Closed Basin Lake is prescribed in the Standard Flood Insurance Policy (SFIP) at Section **VII T. 2. (T. 2.)** in both the Dwelling Form and also in the General Property Form and at Section **VIII T. 2.** in the Residential Condominium Building Association Policy.

Subject to all other provisions of **T. 2.** and of the SFIP, if the insured building is subject to continuous lake flooding caused by the closed basin lake, Devil's Lake, ND the following requirements must be met to be eligible for coverage under the terms of **T. 2.** in all policy forms:

- The building must be located in a community eligible for **T. 2.** coverage, and
- The subject building must have had NFIP flood insurance coverage continuously beginning on November 30, 1999, and a subsequent owner on or after November 30, 1999, must have an NFIP policy in effect within 60 days of the transfer of title (see: **T. 2. g.**), and
- The policyholder must grant a conservation easement (see: **T. 2. b. (2)**), and
- The community must have adopted a permanent land-use ordinance on or before July 15, 2001, (see: **T. 2. e. (1), (2), and (3)**).

Please Note: FEMA will not recognize any increases in coverage limits with effective dates on or after November 30, 1999 (see: **T. 2. g.**), except when offered by the insurer as a routine inflation-guard increase and purchased by the policyholder. Insured buildings not eligible for the provisions of **T. 2.** described above, but damaged by continuous lake flooding will be eligible for those provisions described at **T. 1.** of the SFIP, subject to the terms and conditions of the **T. 1.** and the SFIP.

Official National Weather Service (NWS) forecasts of Devil's Lake still-water levels have been the coverage marker in the past. The Policy Issuance dated November 19, 1999, applied only to buildings with basements and their relationship to other buildings described in FEMA's August 2, 1999, interim final rule that provided a closed basin lake endorsement to each of the three SFIP forms.

Buildings in eligible communities subject to damage from the effects of the Closed Basin Lake, Devils Lake, ND, may now file claims if any portion of the insured building, as defined in the SFIP, is at the still water level of 1451 MSL.

We ask for your full support. Any questions or comments regarding this guidance should be directed to James A. Sadler, CPCU, AIC, Director of Claims, National Flood Insurance Program. Mr. Sadler may be reached by email at James.Sadler@dhs.gov.

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: Claims, Underwriting