

U.S. Department of Homeland Security  
Federal Emergency Management Agency Region II  
Jacob K. Javits Federal Office Building  
26 Federal Plaza  
New York, New York 10278



**FEMA**

July 03, 2019

Hon. Peter Rovazzi, Supervisor  
Town of German Flatts, NY  
66 East Main Street PO Box 57  
Mohawk, New York 13407

RE: National Flood Insurance Program (NFIP) Community Assistance Contact (CAC)  
Town of German Flatts, Herkimer County, New York  
Community Identification Number (CID) 360305

Dear Supervisor Rovazzi:

On December 10, 2018 the Federal Emergency Management Agency (FEMA), Region II (Region) notified the Town of German Flatts (Town) of its current state of non-compliance under the National Flood Insurance Program (NFIP). In that letter, the Region outlined six (6) potential NFIP violations and requested a Corrective Action Plan with specific remedial measures to be taken by the town no later than April 09, 2019. For whatever reason, FEMA has not yet received a response to this letter.

As a second notice, the table below defines the action items for address by way of a Corrective Action Plan by your office no later than 60 days from the date of this letter. Coordinated status review calls will be established by the Region II, Floodplain Management and Insurance (FM&I) Branch to provide technical assistance toward completion of your Corrective Action Plan for each Non-Compliant element identified below.

**Table 1. Action Items**

<b>Element</b>	<b>Status</b>	<b>Owner</b>	<b>Targets</b>
Regulations	Compliant	Town	N/A
Permitting Process	Noncompliant	Town	60 days
Floodplain Development	Noncompliant	Town	60 days
Capacity Building	Ongoing	FEMA & NYSDEC	60 days

In accordance with the National Flood Insurance Act of 1968, communities that participate in the NFIP must adopt and enforce floodplain management regulations that meet minimum NFIP criteria. Meeting these criteria makes communities more resistant to the damaging effects of flooding on lives, property, and local prosperity. Through the NFIP, property owners in the Town can insure against flood losses. By employing wise floodplain management, a participating community can protect its citizens against much of the devastating financial loss resulting from flood disasters.

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When attempts to resolve enforcement problems through community assistance or consultation have been unsuccessful, the FEMA Regional Administrator may choose to place a community on NFIP probation. The probationary period lasts at least until all program deficiencies have been corrected and violations have been remedied to the maximum extent possible, and it may be extended for up to one year after that.

While flood insurance coverage would still be available should the Town be placed on probation, a \$50.00 Probation Surcharge would be added to the premium for each NFIP flood policy written or renewed in your community for at least one year. This surcharge is to offset added risk and administrative costs assumed by the NFIP because of local noncompliance.

To avoid probation, the Town must correct deficiencies in its floodplain management program and remedy violations of its floodplain management regulations to the maximum extent practicable. This requirement applies regardless of the community official or administration that was in the administrative position when the noncompliant development occurred. It is appreciated by FEMA that the term "...maximum extent practicable" will require additional discussion, clarification and negotiation. Over the coming months FEMA looks forward to having this dialogue with you regarding the steps required to maintain good standing in the NFIP.

If the Town does not take appropriate measures to remain in good NFIP standing within the probationary period, it may be suspended from the NFIP. Should the Town be suspended federally backed flood insurance would become unavailable until the community is reinstated. The following protections against floods and other disasters would also be unavailable under the Flood Disaster Protection Act of 1973.

- Grants, loans, or guarantees from federal agencies, such as the Federal Housing Administration, the Department of Veterans Affairs, and the Small Business Administration, to buy or construct an insurable building in a Special Flood Hazard Area (SFHA),
- Federal disaster assistance to buy, construct, or repair an insurable building in a SFHA, and
- Post-disaster, individual and family grant assistance for housing and personal property in a SFHA.

Supplementary information regarding NFIP Probation and Suspension can be obtained at the following web links: <https://www.fema.gov/probation> , <https://www.fema.gov/suspension>.

Again, this letter is a second follow-up to the Community Assistance Contact (CAC) which was held in the Town on November 29<sup>th</sup> 2018. This CAC was held to address the Town's current state of floodplain management non-compliance. As you are aware, the CAC was a follow up to a previous Community Assistance Visit (CAV), which took place on April 14, 2016. The CAV results are summarized below.

### **Potential violations of the community floodplain management regulations**

1. Creekside Mobile Home Park - Currently, the primary focus of NFIP compliance remediation is on several potential violations at a small Manufactured Home Park (MHP) on Fulmer Creek just south of Mohawk Village line. The 2010 CAV noted new manufactured home trailers were placed in Zone A [as of 2011, Zone AE, possibly in floodway (per new preliminary DFIRMS) issued in 2011] on Fulmer Creek, trailers are sited on stacked blocks

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which is prohibited under the NFIP. Further, it is not clear if trailers are properly anchored, propane/fuel tanks appear not to be anchored, stone blocks have been added to the streambank [in floodway], fill and grading have been added for site access, bases for trailers, and accessory structures. Tax parcel #120.63-1-2, State Route 168, owner: William Jaquish.

This property was flooded in 2013 and at least twice before. The Effective Flood Insurance Rate Map (FIRM) shows the entire property to be within the SFHA, but the current preliminary FIRM shows a narrower floodplain, BFE's and a floodway. A stream protection project was approved in 2006 resulting in the placement of two tiers of rock above the stream bank. This work was performed with compliant State and federal permits however, additional local permitting was required.

Despite this unfulfilled local permit requirement the property owner further added stone between 2010 and 2011 to the existing two tiers of rock and subsequently built the wall up to above the top of bank and added a two (2) foot high cement barrier on top of that. Fill was placed landward of the wall and damaged manufactured homes were replaced. A wall was also erected perpendicular to the stream at the upstream edge of the property, some of which is within the preliminary floodway. Additionally, the violations noted in the 2010 CAV have still not been properly addressed.

After the 2016 CAV the State Supreme Court ruled that the owners must cease all use and residency of the property; and remove all noncompliant encroachments to the floodplain and/or floodway by December 01, 2018 or incur \$250.00 fines per day until compliant with the court order. The terms of that Court Order required that the compliance work be performed on the property pursuant to the FEMA issued Preliminary Floodplain mapping.

2. New replacement trailer in the center rear of the MHP next to Fulmer Creek, Zone A [Zone AE, per new preliminary DFIRMS issued in 2011] with small accessory structures. Tax parcel #120.3-2-40, State Route 168, reputed owner: James Helmer. Pursuant to a FEMA Hazard Mitigation Assistance (HMA) program acquisition this potential violation appears to have been resolved. Please provide confirmation.
3. New replacement trailer in the southwest corner of MHP next to Fulmer Creek, Zone A with a small deck and unsecured propane tank. Tax parcel #126.2-2-16.2, off State Route 168, reputed owner: Leatherstocking Mobile.
4. Armored stream crossing with heavy stone in Fulmer Creek for a pipeline, Zone A. Tax parcel #126.2-2-33, off Rock Hill Rd, reputed owner: Susan Thuener.
5. Fulmer Creek, Zone A, State Route 168: Several properties were observed with large piles of fire wood and/or logs stored by creek side and unsecured.
6. Many small sheds, decks, and stream crossing bridges were observed in Zone A of tributary to Steele Creek along Spinnerville Gulf Rd.

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It is our hope that during this coordination FEMA, NYSDEC and the Town can work together to reshape and refocus the dialogue regarding the Town's vulnerability to flooding. FEMA further hopes to work with you to identify options for enhancing the Town's measure of protection from flood risk exposure. Such measures include but are not limited to Hazard Mitigation Planning and Hazard Mitigation Assistance (HMA) grants to elevate or otherwise mitigate flood prone structures.

Finally, I would be remiss if I did not acknowledge the dedication to and stewardship of floodplain management practices and principles demonstrated by Mr. Anthony Klimek, of your staff. FEMA is sincerely appreciative of Mr. Klimek's NFIP compliance efforts on behalf of the Town.

Thank you for your earliest attention and support in the above. If you should have any questions, please feel free to contact the Region's FM&I Branch Chief at (347) 633-4308 or [Scott.Duell@fema.dhs.gov](mailto:Scott.Duell@fema.dhs.gov). You may also contact the Region's Senior NFIP Program Specialist at (917) 561-3174 or [Jason.Fenn@fema.dhs.gov](mailto:Jason.Fenn@fema.dhs.gov).

Sincerely,

*Scott Duell*

Scott V. Duell, Chief  
Floodplain Management and Insurance

Enclosure:

Cc: Alan A. Fuchs, P.E. – NYSDEC;  
Albert Ash – NYSDEC;  
Anthony Klimek - Town of German Flatts