October 26, 1993

TO: Chuck Kleeberg
    Greg Kipp
    Terry Brunner
    Harold Vaderauff
    George McCallum

FM: Jerry Balcom

RE: Minutes of August 6, 1993 Regulatory Review Committee
    Meeting

1. Does the definition of "flood hazard area" allow regulation
   of development within channel migrating areas outside of the

K.C.C. 21.64.020 (Provisions not affected by headings) states:
"Chapter and section headings contained herein shall not be
deemed to govern, limit, modify, or in any way affect the scope,
meaning or intent of any section hereof." Reference to the
"flood fringe" in K.C.C. 21.54.190 is made only in the heading.
Subsection "B" of K.C.C. 21.54.190, in reference to channel
relocation or meandering contains no restriction on the
application of the subsection to flood fringe areas only.
Therefore, authority exists to regulate development within
channel relocation or meander areas outside of the flood fringe.
However, unlike other sections within Chapter 21.54 which
provide standards for review of sensitive areas, no such
standards exist for channel relocation or meander areas. The
authority to regulate development within such areas is therefore
limited until standards are developed under a public rule.

The consensus of the group was that subsection B is misplaced
and is more appropriately located under K.C.C. 21.54.300
(streams). The group felt that a code amendment should be
prepared which: 1) deletes subsection B from K.C.C. 21.54.190,
2) adds a new subsection to K.C.C. 21.54.300 addressing channel
relocation and meander areas, and allowing for some development
within those areas, the extent to which will be defined by
public rule, and 3) adds introductory language to K.C.C.
21.54.190 clarifying the application of the section to areas
within the flood fringe. Similar amendments will be proposed
for the new zoning code under chapter 21A.24.

JB:GT
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cc: Ann Dold
    Gordon Thomson
    Henryk Hiller
    Jeff O’Neill
    Joe Miles
    Steve Bottheim
    Finn Krogstad
    Lori Druffel
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