

Congress of the United States
Washington, DC 20515

April 30, 2018

Lee dePalo, Regional Administrator
Federal Emergency Management Agency
Denver Federal Center
Building 710, Box 25267
Denver, CO 80225-0267

Dear Mr. dePalo,

Enclosed is a copy of a correspondence from Boulder County Colorado. As you can see they are appealing FEMA Region VIII's first appeal determination on PW 1086.

As result of the flood of September 2013, several culverts were damaged. Boulder County is now seeking reimbursement for the repair and restoration of the culverts along Geer Canyon. FEMA initially denied eligibility for PW 1086 because FEMA does not believe Boulder County's local code (Boulder County Multimodal Transportation Standards or MMTS) requires the application of MMTS in every instance if the repair or replacement contains any change from the pre-disaster design.

However, Boulder County contends that this would be an incorrect application of the Stafford Act, 24 CFR 206.226(d)(1) and (4), the FEMA PA Guide 322, and DAP 9524.4(VII)(C)(4), other FEMA eligibility policies, and would not comport with FEMA's past practice. Local governments should have the flexibility to apply objective criteria to determine if a facility meets safety standards based on the specifics of that facility as well as the context in which the facility is located. For example, when replacing facilities in a canyon, you may need to change the width of shoulder to accommodate the canyon topography, but as long as the road meets safety requirements, a design exception should be allowed.

If upheld, the interpretation made by FEMA Region VIII will negatively impact the ability of local governments to rebuild facilities which meet local safety and function standards in the most resilient and cost-effective manner.

We encourage you to review Boulder County's appeal and provide it full and fair consideration, consistent with applicable laws and regulations. Thank you in advance for your consideration.

Yours truly,


Jared Polis
U.S. Representative


Michael F. Bennet
U.S. Senator