



**FEMA**

December 18, 2006

Colonel Thomas Kirkpatrick  
State Coordinating Officer  
Louisiana Office of Homeland Security and Emergency Preparedness  
415 North 15<sup>th</sup> Street  
Baton Rouge, Louisiana 70802

Re: FEMA-1603-DR-LA

Greater Lafourche Port Commission, FIPS No. 057-UPFLP-00

First Appeal, Substantial Completion of Debris Fence Project Worksheet (PW) 4715

Dear Colonel Kirkpatrick:

This is in response to the State's letter of September 7, 2006, transmitting the first appeal of the Greater Lafourche Port Commission regarding eligible damages on a double-rail, timber debris fence.

Background

The Greater Lafourche Port Commission engaged Sealevel Construction as its contractor on January 7, 2005 for the design and installation of a 13,209 linear foot double-rail, timber debris fence. The fence was under construction when Hurricane Katrina struck on August 29, 2005, and the project was identified as ineligible during FEMA's review of PW 4715. The applicant contends, in its appeal, that all completed portions of the fence fell under its ownership and control versus the control of the contractor, and therefore those completed portions of the fence should be eligible for reimbursement. Further, the debris fence was not covered by a builder's risk policy with a provision for flood hazard coverage.

Discussion

The Greater Lafourche Port Commission points to its acceptance and use of the completed portion of the debris fence as follows:

- (1) The applicant made progress payments which illustrates acceptance of work completed;

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- (2) The applicant-furnished Construction Report dated August 10, 2005 from its contract engineering firm, Picciola and Associates, Inc., which cites the following about the debris fence, "The contractor has approximately 12,458 linear feet of vertical posts driven and horizontal members installed. They are complete with all sections that have not experienced erosion. He (Sealevel Construction agent) has agreed to construct a test section in the eroded area for drilling posts. Once (the test is) complete the project should be complete within 2 weeks"; and
- (3) The applicant-furnished memorandum dated November 9, 2006 from Picciola and Associates that states, "As of August 28, 2005, Sealevel Construction was substantially complete with the installation of 13,065 linear feet of debris fence".

The following reflects an analysis of the applicant's appeal:

- (1) Progress payments may or may not constitute acceptance of work performance;
- (2) The August 10, 2005 Engineering Report to the Greater Lafourche Port Commission from its contractor, Picciola and Associates, confirmed the satisfactory pre-disaster completion of 12,458 linear feet of fencing. Picciola and Associates was hired to evaluate the quality and completeness of the work as the applicant's representative.
- (3) The November 9, 2006 memorandum from Picciola and Associates certifies substantial completion of 13,065 linear feet of debris fence at the time Hurricane Katrina hit the Parish.

According to Picciola and Associates, 13,065 linear feet of the debris fence had been accepted as substantially complete and come into its intended use at the time of the disaster.

The applicant and its contractor are in agreement that all necessary insurances required under the terms of the contract were satisfied; neither the Applicant nor its contractor respectively required or secured a builder's risk insurance policy to support flood coverage. FEMA insurance specialists concur that flood hazard insurance was neither a contract requirement on the project under appeal nor necessary, at the time of the disaster, to be considered eligible work.

#### Conclusion

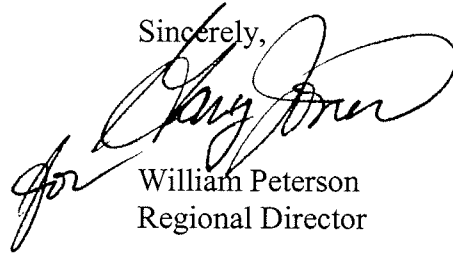
After careful review, it is evident that all parties have worked in good faith, and the appeal has been granted. A version will be prepared for \$209,000 which reflects the estimated repair costs previously denied in PW 4715.

At this time, the National Flood Insurance Program (NFIP) does not make federally-backed flood policies available for fences; therefore, no NFIP is required.

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Please inform the applicant of my determination. Should you have any questions, please contact James Stark, Director of the Louisiana Transitional Recovery Office at (504) 762-2000.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm Peterson", written in a cursive style. The signature is positioned to the left of the typed name and title.

William Peterson  
Regional Director