



**FEMA**

December 21, 2006

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

Re: FEMA-1607-DR-LA  
City of Morgan City, PA ID#101-52040-00  
First Appeal – Request to Assess Additional Damages

Dear Colonel Kirkpatrick:

This is in response to the State's letter of October 3, 2006, transmitting a request to assess additional damages for the City of Morgan City (applicant). The basic issue in the applicant's request to assess additional damages, necessitates a discussion as to whether the work is eligible, a key component of FEMA reimbursement. What will follow is an analysis of eligibility of the work to the applicant's facility. To this end, the request shall be treated as a first appeal.

#### Background

As a result of the storm surge from Hurricane Rita on September 24, 2005, salt water was forced from the Gulf of Mexico up the Atchafalaya River into Morgan City. On September 18, 2006, the applicant submitted a request to identify additional damages to the State. The applicant states that the storm surge pushed chloride levels into the applicant's water plant intake system to unprecedented levels. According to the applicant's contractor, Global Design and Solutions, Inc., long-term damage from the salt water intrusion caused damage to the accelerator in the water intake system.

On October 3, 2006, the State forwarded the request along with a letter of support to FEMA. The State has requested that FEMA conduct an assessment of additional damages that were identified by the applicant's contractor. According to the State and the applicant, these damages occurred as a result of the extraordinary storm surge from Hurricane Rita.

#### Discussion

After careful review of the documentation submitted, the applicant's contractor states that the water tank appears to have been constructed approximately 35 years ago, and "[t]here has been no major rehabilitation performed on the tank". An assessment by a FEMA utilities specialist indicated that during the normal maintenance cycle, in order to protect metal parts

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from rapid corrosion, said parts need to be treated (sandblasted or power washed) and painted with water-resistant materials. Because no major rehabilitation was performed on the concrete tank wall, the mechanical system inside the tank (including the accelerator) and all other metal parts, corroded as a result of raw waters during the 35 years of use and lack of proper maintenance.

Damage caused by lack of normal maintenance or neglect is not eligible because it is not a direct result of the disaster. Based on Title 44 Code of Federal Regulations (CFR) § 206.223 (e), no assistance will be provided to an applicant for damages caused by its own negligence. Therefore, any additional damages identified would be considered the result of lack of maintenance and thus, reflect the pre-disaster condition of the water intake system. Such damages are ineligible for FEMA assistance.

Further, on April 14, 2006, FEMA submitted a letter to the State regarding the *Deadline for Submitting Additional Damage Information*. In this letter the deadline to identify and submit to FEMA any additional damage information was June 30, 2006, for all applicants in FEMA-1603-DR-LA and FEMA-1607-DR-LA that have participated in Kickoff Meetings by May 2006. The applicant's kickoff meeting was held on October 15, 2005. Therefore, the time to submit a request for additional damage information for this applicant has expired.

#### Conclusion

In light of this information, the request for additional damage assessment to the applicant's water tank is denied. Please inform the applicant of my determination. The applicant may submit a second appeal to the Director of Recovery for FEMA, through your office, in accordance with 44 CFR §206.206. If the applicant decides to pursue a second appeal, the applicant must provide documentation supporting its position and identify the applicable provisions of federal law, regulation or policy with which it believes this action was inconsistent. FEMA will review and consider the required analysis and recommendation provided by the State should it support the applicant's appeal. The second appeal must be submitted to your office within 60 days of the applicant's receipt of this determination.

If you have any questions, please contact James Stark, Director, Louisiana Transitional Recovery Office at 504-762-2000.

Sincerely,



William Peterson  
Regional Director