

Unified Public Assistance Project Decision Team
Eligibility Decision
Decision Date: March 27, 2009

Dispute #: 21
Subgrantee: New Orleans Public Belt Railroad
DR: 1603
PW(s): 17792, 17793, 17794, 17796, 17797, 17798
Project: 406 Mitigation Proposal Related to Steel Ties

Description of Dispute

Eligibility of 406 mitigation for the replacement of wooden ties and connections with steel ties.

Unified PAPDT Decision

Concur with applicant on the completed 406 mitigation measures. Additional information would be needed to determine if further 406 mitigation measures would still be allowable and appropriate for those sections in which the displaced wooden ties were used in the repair.

- (1) The applicant proposed a 406 mitigation measure to install steel ties for the curve and turnout sections of the line. The original FEMA PO supported the mitigation and determined the proposal to be cost-effective with a BCA of 6.12. The mitigation proposal was subsequently denied for the following reason; "This 406 hazard mitigation proposal to utilize steel railroad ties versus the applicant's pre-disaster practice of creosote railroad ties does not prevent or limit future inundation of the rail system." The justification for denial is inconsistent with FEMA Disaster Assistance Policy 9526.1, Hazard Mitigation Funding Under Section 406 (Stafford Act), which in Part VI.A. states the purpose of 406 mitigation is to, "enhance a facility's ability to resist similar damage in future events." Similarly, 406 mitigation following earthquakes is not limited to measures which prevent ground shaking but typically the impacts of ground shaking. All steel ties and related connections installed to date as specified in the original FEMA PO's Hazard Mitigation Proposals, and completed during the original repair, are eligible.
- (2) If the applicant is seeking additional funding for 406 mitigation for those sections repaired with the pre-event wood cross ties, additional information will be needed to determine eligibility of the hazard mitigation. As is stated in FEMA Policy 9526.1, Part VII.A., mitigation "opportunities usually present themselves during the repair efforts." If the repairs have been completed in sections, whether identified in the original FEMA PO's Hazard Mitigation Proposals or other sections of track, the opportunity for mitigation may not be appropriate at this date.

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3-27-09

Charles R. Axton
FEMA Lead
Unified PA Project Decision Team

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Mark S. Riley
Assistant Deputy Director
Disaster Recovery

- Concur
- Non-Concur

*Recommended
Concurrence
ajj
3-26-09*