



FEMA

January 4, 2018

MEMORANDUM FOR: Camille Crain, Hazard Mitigation Assistance Branch Chief

FROM: *DWC for* Kevin Jaynes, Regional Environmental Officer

SUBJECT: HMGP-DR-4269-TX, Project #7, Fort Bend County
Acquisition Demolition Project, Texas

The purpose of this memorandum is to notify you that the Hazard Mitigation Grant Program (HMGP) project for the proposed acquisition and demolition of 10 properties in Fort Bend County, Texas, has been cleared with conditions under the National Environmental Policy Act (NEPA). The Federal Emergency Management Agency (FEMA) Directive 108-1 and Instruction 108-1-1 require that FEMA take into account environmental considerations when authorizing or approving major actions. This project has been determined to be categorically excluded in accordance with FEMA Instruction 108-1-1 and DHS Instruction 023-01-001-01; CATEX (N3) from the need to prepare either an Environmental Impact Statement or Environmental Assessment. No extraordinary circumstances in accordance with DHS Instruction 023-01-001-01 have been identified regarding this action. The applicant must comply with all conditions set forth in the attached Record of Environmental Consideration (REC). Failure to comply with these conditions may jeopardize federal assistance including funding.

Please note that this transmittal is a notification that this project has been cleared under NEPA only. **This is not a notice of final approval or eligibility.** Any change beyond the approved scope of work for this project will require additional environmental review by FEMA.

cc: Florence Aihe & Marty Chester, Hazard Mitigation Specialists

Enclosures: Record of Environmental Consideration (REC)

Record of Environmental Consideration

See FEMA Directive 108-1 and FEMA Instruction 108-1-1.

Project Name/Number: HMGP-DR-4269-TX, Project #7 Fort Bend County Acquisition and Demolition Project

Project Location: Fort Bend County, Texas. See attached property list.

Project Description: Under the proposed HMGP project, Fort Bend County proposes to acquire and demolish 10 structures that are prone to flooding. The acquired properties will be deed restricted and will remain as open space in perpetuity. This Record of Environmental Consideration (REC) supersedes the REC issued in October 2017 because the property list and review was updated in January 2018.

National Environmental Policy Act (NEPA) Determination

- ☐ Statutorily excluded from NEPA review. (**Review Concluded**)
- ☒ Categorical Exclusion - Category (N3)
- ☒ No Extraordinary Circumstances exist.
- Are project conditions required? ☒ Yes (see section V) ☐ No (**Review Concluded**)
- ☐ Extraordinary Circumstances exist (See Section IV).
- ☐ Extraordinary Circumstances mitigated. (See Section IV comments)
- Are project conditions required? ☐ Yes (see section V) ☐ No (**Review Concluded**)
- ☐ Environmental Assessment
- ☐ Supplemental Environmental Assessment (Reference EA or PEA in comments)
- ☐ Environmental Impact Statement

Comments: This project has been determined to be Categorical Excluded from the need to prepare either an Environmental Impact Statement or Environmental Assessment in accordance with FEMA Instruction 108-1-1 and DHS Instruction 023-01-001-01; CATEX N3. Particular attention should be given to the project conditions before and during project implementation. Failure to comply with these conditions may jeopardize federal assistance including funding.

Reviewer and Approvals

- ☐ Project is Non-Compliant (See attached documentation justifying selection).

FEMA Environmental Reviewer.

Name: Dorothy Cook, Senior Environmental Specialist

Signature _____ Date _____

DWC for

FEMA Regional Environmental Officer or delegated approving official.

Name: Kevin Jaynes, Regional Environmental Officer

Signature _____ Date _____

I. Compliance Review for Environmental Laws (other than NEPA)

A. National Historic Preservation Act

- ☐ Not type of activity with potential to affect historic properties. **(Review Concluded)**
- ☒ Applicable executed Programmatic Agreement. Otherwise, conduct standard Section 106 review.
- ☐ Activity meets Programmatic Allowance Item II; B.10.a
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**

HISTORIC BUILDINGS AND STRUCTURES

- ☐ No historic properties that are listed or 45/50 years or older in project area. **(Review Concluded)**
- ☒ Building or structure listed or 45/50 years or older in project area and activity not exempt from review.
- ☒ Determination of No Historic Properties Affected (FEMA finding/SHPO/THPO concurrence on file)
- Are project conditions required? ☒ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ Determination of Historic Properties Affected (FEMA finding/SHPO/THPO concurrence on file)
- ☐ Property a National Historic Landmark and National Park Service was provided early notification during the consultation process. If not, explain in comments
- ☐ No Adverse Effect Determination (FEMA finding/SHPO/THPO concurrence on file).
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ Adverse Effect Determination (FEMA finding/SHPO/THPO concurrence on file)
- ☐ Resolution of Adverse Effect completed. (MOA on file)
- Are project conditions required ☐ Yes (see section V) ☐ No **(Review Concluded)**

ARCHEOLOGICAL RESOURCES

- ☒ Project affects only previously disturbed ground. **(Review Concluded)**
- ☐ Project affects undisturbed ground.
- ☐ Project area has no potential for presence of archeological resources
- ☐ Determination of no historic properties affected (FEMA finding/SHPO/THPO concurrence or consultation on file). **(Review Concluded)**
- ☐ Project area has potential for presence of archeological resources
- ☐ Determination of no historic properties affected (FEMA finding/SHPO/THPO concurrence on file)
- Are project conditions required ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ Determination of historic properties affected
- ☐ NR eligible resources not present (FEMA finding/SHPO/THPO concurrence on file).
- Are project conditions required ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ NR eligible resources present in project area. (FEMA finding/ SHPO/THPO concurrence on file)
- ☐ No Adverse Effect Determination. (FEMA finding/ SHPO/THPO concurrence on file)
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ Adverse Effect Determination. (FEMA finding/ SHPO/THPO concurrence on file)
- ☐ Resolution of Adverse Effect completed. (MOA on file)
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**

Comments: The scope of work has been reviewed for the acquisition at 911 Faustino Garcia Road and meets the criteria in Appendix B - Programmatic Allowances, Item II.B.10.a of FEMA's Programmatic Agreement (PA) dated September 11, 2014. In accordance with this PA, FEMA is not required to determine the National Register eligibility of properties where work performed meets the Appendix B criteria. For the remaining properties, FEMA has determined that there will be No Historic Properties Affected. SHPO concurrence with this determination was received, dated January 24, 2017. The scope of work has been reviewed and FEMA has determined that the project will not require Tribal Consultation.

Correspondence/Consultation/References:

B. Endangered Species Act

- ☐ No listed species and/or designated critical habitat present in areas affected directly or indirectly by the Federal action. **(Review Concluded)**
- ☒ Listed species and/or designated critical habitat present in the areas affected directly or indirectly by the Federal action.
- ☒ No effect to species or designated critical habitat.
- Are project conditions required? ☐ Yes (see section V) ☒ No **(Review Concluded)**

Disaster/Emergency/Program/Project Title: HMGP-DR-4269-TX, Project #7 Acquisition Demolition Project

☐ May affect, but not likely to adversely affect species or designated critical habitat (FEMA determination/USFWS/NMFS concurrence on file)

Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**

☐ Likely to adversely affect species or designated critical habitat

☐ Formal consultation concluded. (Biological Assessment and Biological Opinion on file)

Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

C. Coastal Barrier Resources Act

☒ Project is not on or connected to CBRA Unit or Otherwise Protected Area **(Review Concluded)**.

☐ Project is on or connected to CBRA Unit or Otherwise Protected Area. (FEMA determination/USFWS consultation on file)

☐ Proposed action an exception under Section 3505.a.6 **(Review Concluded)**

☐ Proposed action not excepted under Section 3505.a.6.

Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

D. Clean Water Act

☒ Project would not affect any water of the U.S. **(Review Concluded)**

☐ Project would affect waters, including wetlands, of the U.S.

☐ Project exempted as in kind replacement or other exemption. **(Review Concluded)**

☐ Project may require Section 404/401/or Section 9/10 (Rivers and Harbors Act) permit, including qualification under Nationwide Permits.

Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

E. Coastal Zone Management Act

☒ Project is not located in a coastal zone area and does not affect a coastal zone area **(Review concluded)**

☐ Project is located in a coastal zone area and/or affects the coastal zone

☐ State administering agency does not require consistency review. **(Review Concluded)**.

☐ State administering agency requires consistency review.

Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

F. Fish and Wildlife Coordination Act

☒ Not applicable for financial assistance. **(Review Concluded)**

G. Clean Air Act

☒ Project will not result in permanent air emissions. **(Review Concluded)**

☐ Project is located in an attainment area. **(Review Concluded)**

☐ Project is located in a non-attainment area.

☐ Coordination required with applicable state administering agency.

Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

H. Farmland Protection Policy Act

- ☒ Project does not affect designated prime or unique farmland. **(Review Concluded)**
- ☐ Project causes unnecessary or irreversible conversion of designated prime or unique farmland.
- ☐ Coordination with Natural Resource Conservation Commission required.
- ☐ Farmland Conversion Impact Rating, Form AD-1006, completed.
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

I. Migratory Bird Treaty Act

- ☐ Project not located within a flyway zone. **(Review Concluded)**
- ☒ Project located within a flyway zone.
- ☒ Project does not have potential to take migratory birds.
- Are project conditions required? ☐ Yes (see section V) ☒ No **(Review Concluded)**
- ☐ Project has potential to take migratory birds.
- ☐ Contact made with USFWS
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

J. Magnuson-Stevens Fishery Conservation and Management Act

- ☒ Project not located in or near Essential Fish Habitat. **(Review Concluded)**
- ☐ Project located in or near Essential Fish Habitat.
- ☐ Project does not adversely affect Essential Fish Habitat.
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ Project adversely affects Essential Fish Habitat (FEMA determination/USFWS/NMFS concurrence on file)
- ☐ NOAA Fisheries provided no recommendation(s)
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ NOAA Fisheries provided recommendation(s)
- ☐ Written reply to NOAA Fisheries recommendations completed.
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

K. Wild and Scenic Rivers Act

- ☒ Project is not along and does not affect Wild or Scenic River (WSR) - **(Review Concluded)**
- ☐ Project is along or affects WSR
- ☐ Project adversely affects WSR as determined by NPS/USFS. **FEMA cannot fund the action.**
(NPS/USFS/USFWS/BLM consultation on file) **(Review Concluded)**
- ☐ Project does not adversely affect WSR. (NPS/USFS/USFWS/BLM consultation on file)
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

L. Other Relevant Laws and Environmental Regulations

Resource Conservation and Recovery Act (RCRA): Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.

II. Compliance Review for Executive Orders

A. E.O. 11988 – Floodplains

- ☐ No Effect on Floodplains/Flood levels and project outside Floodplain - **(Review Concluded)**
- ☒ Located in Floodplain or Effects on Floodplains/Flood levels
- ☐ No adverse effect on floodplain and not adversely affected by the floodplain.
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☒ Beneficial Effect on Floodplain Occupancy/Values **(Review Concluded).**
- ☐ Possible adverse effects associated with investment in floodplain, occupancy or modification of floodplain environment
- ☐ 8 Step Process Complete - documentation on file
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: Portions of the project are located within an “AE” and “Floodway” zone, areas of 100-yr flooding, per Flood Insurance Rate Map (FIRM) 48157C0235L, dated 4/2/2014, and per various Preliminary FIRM panels, dated 1/30/2017 (see attached property list). The proposed action is not likely to result in any potential direct impacts that will adversely affect the natural values and function of floodplains, nor is it likely to increase the risk of flood loss.

Correspondence/Consultation/References:

B. E.O. 11990 – Wetlands

- ☒ No Effects on Wetland(s) and project located outside Wetland(s) - **(Review Concluded)**
- ☐ Located in Wetland or effects Wetland(s)
- ☐ Beneficial Effect on Wetland - **(Review Concluded)**
- ☐ Possible adverse effect associated with constructing in or near wetland
- ☐ Review completed as part of floodplain review
- ☐ 8 Step Process Complete - documentation on file
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: A review of the National Wetland Inventory (NWI) online mapper, accessed on 1/4/2018, for the site indicates that the area is not located within nor does it affect a designated wetland.

Correspondence/Consultation/References:

C. E.O. 12898 - Environmental Justice For Low Income and Minority Populations

- ☐ No Low income or minority population in, near or affected by the project - **(Review Concluded)**
- ☒ Low income or minority population in or near project area
- ☒ No disproportionately high and adverse impact on low income or minority population- **(Review Concluded)**
- ☐ Disproportionately high or adverse effects on low income or minority population
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

III. Other Environmental Issues

Identify other potential environmental concerns in the comment box not clearly falling under a law or executive order (see environmental concerns scoping checklist for guidance).

Comments:

Correspondence/Consultation/References:

IV. Extraordinary Circumstances

Based on the review of compliance with other environmental laws and Executive Orders, and in consideration of other environmental factors, review the project for extraordinary circumstances.

* A "Yes" under any circumstance may require an Environmental Assessment (EA). If the circumstance can be mitigated, please explain in comments. If no, leave blank.

Yes

- ☐ (i) A potentially significant effect on public health or safety.
- ☐ (ii) A potentially significant effect on species or habitats protected by the ESA, Marine Mammal Protection Act, Migratory Bird Treaty Act, Magnuson-Stevens Fishery Conservation and Management Act, or other law protecting a species or habitat.
- ☐ (iii) A potentially significant effect on historic properties (e.g., districts, sites, buildings, structures, or objects) that are listed in or eligible for listing in the National Register of Historic Places, affects traditional cultural properties or sacred sites, or leads to the loss or destruction of a significant scientific, cultural, or historical resource.
- ☐ (iv) A potentially significant effect on an environmentally sensitive area.
- ☐ (v) A potential or threatened violation of a Federal, State, or local law or requirement imposed to protect the environment. Some examples of other requirements to consider are: a local noise control ordinance; the requirement to conform to an applicable State Implementation Plan for air quality standards; Federal, Tribal, State, or local requirements to control hazardous or toxic substances; and environmental permits.
- ☐ (vi) An effect on the quality of the human environment that is likely to be highly controversial in terms of scientific validity, likely to be highly uncertain, or likely to involve unique or unknown environmental risks. This also includes effects that may result from the use of new technology or unproven technology. Controversy over, including public opposition to, a proposed action absent any demonstrable potential for significant environmental impacts does not itself constitute an extraordinary circumstance.
- ☐ (vii) Extent to which a precedent is established for future actions with significant effects.
- ☐ (viii) Significantly greater scope or size than normally experienced for this particular category of action.
- ☐ (ix) Potential for significant degradation of already existing poor environmental conditions. Also, initiation of a potentially significant environmental degrading influence, activity, or effect in areas not already significantly modified from their natural condition.
- ☐ (x) Whether the action is related to other actions with individually insignificant, but cumulatively significant impacts.

Comments: None

V. Environmental Review Project Conditions

General comments: None

Project Conditions:

1. Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
2. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.
3. If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.
4. Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.
5. If any asbestos containing materials, lead based paint and/or other hazardous materials are found during remediation or repair activities, the applicant must comply with all federal, state and local abatement and disposal requirements under the National Emissions Standards for Hazardous Air Pollutants (NESHAP).
6. Applicant must coordinate with the local floodplain administrator and obtain required permits prior to initiating work. All coordination pertaining to these activities should be retained as part of the project file in accordance with the respective grant program instructions.
7. The applicant shall ensure that best management practices are implemented to prevent erosion and sedimentation to surrounding, nearby or adjacent wetlands. This includes equipment storage and staging of construction to prevent erosion and sedimentation to ensure that wetlands are not adversely impacted per the Clean Water Act and Executive Order 11990.

Monitoring Requirements: None