



# FEMA

U.S. Department of Homeland Security  
Louisiana Recovery Office  
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New Orleans, LA 70114

**DRAFT FINDING OF NO SIGNIFICANT IMPACT (FONSI)**  
**Draft Environmental Assessment**  
**Municipal Yacht Harbor Fishing Pier**  
**Orleans Parish, Louisiana**  
***FEMA-1603-DR-LA***

## **Introduction**

As a result of damages from Hurricane Katrina on August 29, 2005, the Federal Emergency Management Agency (FEMA) was authorized under a Presidential disaster declaration (FEMA-1603-DR-LA) to provide Federal assistance to designated disaster areas in Louisiana. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (PL 93288) Section 406 authorizes FEMA's Public Assistance (PA) Program to provide financial and other forms of assistance to State and local governments to support response, recovery, and mitigation efforts following Presidentially declared disasters.

In accordance with the National Environmental Policy Act (NEPA), the President's Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 CFR 1500-1508), and FEMA's NEPA implementing regulations (44 CFR 10 et seq.), a Draft Environmental Assessment (DEA) has been prepared. The purpose of the DEA is to analyze the potential environmental impacts associated with the relocation of the Municipal Yacht Harbor Fishing Pier and to determine whether to prepare an Environmental Impact Statement (EIS) or Finding of No Significant Impact (FONSI). The proposed project aims to restore community services lost on August 29, 2005, as a result of Hurricane Katrina.

## **Proposed Action**

The Municipal Yacht Harbor Fishing Pier was damaged from storm surge resulting from Hurricane Katrina to an extent that it qualified for replacement. According to the City of New Orleans (Applicant), the replacement pier would better meet the needs of the public and the purpose of the fishing pier if it were to be located out of the path of flow from the 17<sup>th</sup> Street Canal and located approximately 490 ft to the north-northeast of the original pier location, adjacent to an existing breakwater wall north of Breakwater Drive. The project also involves the replacement of a restroom structure that had been leveled by storm surge and flotsam during Hurricane Katrina. The restroom replacement will be located at the structures original footprint but will be elevated to meet current floodplain regulations.

## **Conditions**

Based upon the studies and consultations undertaken in the DEA, several conditions must be met and mitigation measures taken by the applicant prior to and during project implementation.

### **Federally Protected Species and Critical Habitat Conservation Measures**

#### **West Indian manatee (*FE*) Conservation Measures**

The following conservation measures during the West Indian manatee summer migration (June 01 through September 30) will be employed by construction personnel as a contingency for FEMA funding:

1. All personnel related to the construction project will receive worker awareness training on the West Indian manatee. This training will include at a minimum: the laws protecting the West Indian manatee (Marine Mammal Protection Act, 1972 and the Endangered Species Act of 1973) as a federally endangered species, a definition of “*take*” as it applies to the Endangered Species Act, the fines and possible imprisonment for *take* of a West Indian manatee, images of the West Indian manatee as it is likely to be seen in Lake Pontchartrain, vessel work area restrictions and special operating conditions, monitoring requirements, procedures if a manatee is sighted within 100-yards of the active work zone and who to call and who will call if a manatee is sighted. All personnel will need to sign a worker awareness training *sign-in sheet* as a record of their attendance and training received. Any new workers that did not receive the training will need to be trained before working in or near construction areas that require *in-water* work.
2. Informational signs will be posted in visible areas in any construction area where in-water work occurs including all project related vessels. The signs will have an image of a manatee as it is likely to be seen in Lake Pontchartrain, the federal listing status of the manatee, possible punishment for *take* of a manatee and phone numbers to immediately call in the event a manatee is seen: USFWS’s Lafayette Field Office (337) 291-3100 and the LDWF, Natural Heritage Program (225) 765-2821. These informational signs will be weather proofed (laminated) and large enough so that they can be read from a distance of 20-feet. Signs will be posted prior to and for the duration of the construction project.
3. One person per construction site will be made responsible by their crew lead (if not the lead) to call the phone numbers stated above in the event a manatee is sighted.
4. All construction personnel will be responsible for monitoring water-related activities for the presence of manatees as part of their regular duties.
5. The following are special conditions that will be followed in the event a manatee is sighted within 100-yards of the project area:
  - a. All construction personnel will have “*Stop Work*” authority if they see a manatee within 50-feet of a construction activity including moving vessels.

- b. All vessels will operate at no-wake/idle speeds within 100-yards of the work area.
- c. In-water sediment barriers or siltation barriers will need to be re-secured and monitored.
- d. Work will only resume without restriction when a sighted manatee is greater than 100-yards away from the project area.

The following conservation measures for the West Indian manatee will be employed by construction personnel, regardless of season, as a contingency for FEMA funding:

1. All construction personnel will be responsible for monitoring water-related activities for the presence of manatees as part of their regular duties.
2. The following are special conditions that will be followed in the event a manatee is sighted within 100-yards of the project area:
  - a. All construction personnel will have “*Stop Work*” authority if they see a manatee within 50-feet of a construction activity including moving vessels.
  - b. All vessels will operate at no-wake/idle speeds within 100-yards of the work area.
  - c. In-water sediment barriers or siltation barriers will need to be re-secured and monitored.
  - d. Work will only resume without restriction when a sighted manatee is greater than 100-yards away from the project area.

#### **Gulf sturgeon (FT) Conservation Measures**

The following conservation measures for Gulf sturgeon will be employed by construction personnel as a contingency for FEMA funding:

1. All personnel related to the construction project will receive worker awareness training on the Gulf sturgeon. This training will include at a minimum: the laws protecting the Gulf sturgeon (Endangered Species Act of 1973) as a federally endangered species, a definition of “*take*” as it applies to the Endangered Species Act § 3.19, the fines and possible imprisonment for *take* of a Gulf sturgeon, images of the Gulf sturgeon as it is likely to be seen in Lake Pontchartrain. All personnel will need to sign a worker awareness training *sign-in sheet* as a record of their attendance and training received. Any new workers that did not receive the training will need to be trained before working in or near construction areas.
2. A spill prevention and emergency response plan (SPERP) will be required for all construction contractor groups. The SPERP will need to identify at a minimum: emergency contact numbers for local, state and federal environmental and public health agencies, material safety data sheets (MSDS) for all hazardous substances, hazardous material inventory, spill prevention plan, spill response plan/emergency response plan,

spill response equipment (e.g. absorbent pads, disposal containers) and reporting requirements.

3. Sediment control features (BMPs) will be implemented on land to limit sediment delivery to Lake Pontchartrain. Sediment control features will be required around all spoil and unclean gravel, sand and/or soil stock piles. Sediment control features may include but will not be limited to: sediment (silt) fence, straw waddles (fiber rolls), straw bales, sandbag barriers, plastic sheeting, storm drain inlet protection and street sweeping/vacuuming. As with any stormwater control methods the implementation of the appropriate controls will be dictated by the type and amount of sediment being controlled and the forecasted environmental conditions. Monitoring of sediment control features will be required prior to and during rain events to ensure control features are installed correctly and are functioning as necessary.
4. In-water silt barriers (turbidity curtains) will be utilized at the pier removal site and the new pier location during in-water work activities. Silt barriers will need to be installed in a manner that contains the dislodged lakebed sediment to the immediate work area.
5. Barge decks that receive removed pilings and lakebed sediments will be fitted with containment basins made of plastic sheeting draped over straw bale sidewalls. Disposal of all debris and containment basin will be conducted to standards of local, state and federal laws.
6. Erosion control will be necessary for any ground disturbing activities (e.g. excavated areas to receive concrete fill, ground disturbed by heavy equipment). Choice of erosion control measure will be employed based on the type and duration of disturbance. For example, fiber rolls may be used to control sediment runoff around excavated sites that will be filled with concrete, areas of broken ground due to heavy equipment may receive mulch or hydroseeding to control sediment runoff as needed.
7. Any floating debris will be trapped by the silt barrier and removed from the water.
8. In-water work will only be conducted when waters are calm enough to allow for the efficacy of the silt barrier system.
9. Preserved wood used for pier piles and attachments will need to meet EPA standards for in-saltwater (or brackish water) application.
10. All BMPs identified above may be subject to additional requirements based on US Army Corps of Engineer's Rivers and Harbors Act § 10 and Clean Water Act permitting requirements.

**Loggerhead (*FT*), Kemp's Ridley (*FE*), and Green Sea Turtles (*FT*) Conservation Measures**

The following conservation measures for federally listed sea turtles will be employed by construction personnel as a contingency for FEMA funding:

1. All personnel related to the construction project will receive worker awareness training on sea turtles. This training will include at a minimum: the laws protecting federally listed sea turtles (Endangered Species Act of 1973) as federally threatened or endangered species, a definition of “take” as it applies to the Endangered Species Act, the fines and possible imprisonment for *take* of a federally listed sea turtle, images of sea turtles as they are likely to be seen in Lake Pontchartrain, vessel work area restrictions and special operating conditions, monitoring requirements, procedures if a sea turtle is sighted within 100-yards of the active work zone and who to call and who will call if a sea turtle is sighted. All personnel will need to sign a worker awareness training *sign-in sheet* as a record of their attendance and training received. Any new workers that did not receive the training will need to be trained before working in or near construction areas that require *in-water* work.
2. One person per construction site will be made responsible by their crew lead (if not the lead) to call the phone numbers stated here in the event a sea turtle is sighted. NMFS Baton Rouge Field Office (504) 389-0508 and the LDWF, Natural Heritage Program (225) 765-2821.
3. All construction personnel will be responsible for monitoring water-related activities for the presence of sea turtles as part of their regular duties.
4. The following are special conditions that will be followed in the event a sea turtle is sighted within 100-yards of the project area:
  - a. All construction personnel will have “*Stop Work*” authority if they see a sea turtle within 50-feet of a construction activity including moving vessels.
  - b. All vessels will operate at no-wake/idle speeds within 100-yards of the work area.
  - c. In-water sediment barriers or siltation barriers will need to be re-secured and monitored.
  - d. Work will only resume without restriction when a sighted sea turtle is greater than 100-yards away from the project area.

#### **Archeological Artifacts**

- 1) Fill or borrow material used must be sourced from sites that do not contain any buried cultural materials (i.e., wells, cisterns, foundations, basements, prehistoric Indian artifacts, human burials, and the like). If during the course of work, archaeological artifacts (prehistoric or historic) or human remains are discovered, City of New Orleans and/or its contractors must immediately stop work in the vicinity of the discovery and take all reasonable measures to avoid or minimize harm to the finds. The Applicant and GOHSEP must inform the FEMA Public Assistance program, who would in turn contact the FEMA Historic Preservation staff. The Applicant must not proceed with work until FEMA completes the necessary reviews required by Section 106 of NHPA. In addition, if unmarked graves are present, compliance with the Louisiana Unmarked Human Burial Sites Preservation Act is required. In that situation, the Applicant must notify the local

law enforcement agency within 24 hours of the discovery, and notify FEMA and the Louisiana Division of Archaeology at (225) 342-8170 within 72 hours of the discovery. Failure to comply with these stipulations may jeopardize FEMA funding of the project.

- 2) If human bone or unmarked grave(s) are present with the project area, compliance with the Louisiana Unmarked Human Burial Sites Preservation Act (R.S. 8:671 et seq.) is required. The applicant shall notify the law enforcement agency of the jurisdiction where the remains are located within twenty-four hours of the discovery. The applicant shall also notify FEMA and the Louisiana Division of Archaeology at 225-342-8170 within seventy-two hours of the discovery.
- 3) If during the course of work, archaeological artifacts (prehistoric or historic) are discovered, the applicant shall stop work in the vicinity of the discovery and take all reasonable measures to avoid or minimize harm to the finds. The applicant shall inform their Public Assistance (PA) contacts at FEMA, who will in turn contact FEMA Historic Preservation (HP) staff. The applicant will not proceed with work until FEMA HP completes consultation with the SHPO.

#### **General Construction**

- 1) Construction traffic should be closely monitored and controlled as appropriate. All construction activities would be conducted in a safe manner in accordance with OSHA work zone traffic safety requirements.
- 2) To alert motorists and pedestrians of project activities, appropriate signage and barriers would be on site prior to and during construction activities. During construction activities, the construction site(s) would be fenced off to discourage trespassers.
- 3) LDEQ has stormwater general permits for construction areas equal to or greater than one acre. It is recommended that the LDEQ Water Permit Division be contacted at (225) 219-3181 to determine whether the proposed improvements require one of these permits. The contractor is required to implement BMPs that meet the LDEQ permitting specifications for storm water discharge regulated under Section 402 of the CWA.
- 4) Any changes or modifications to the proposed project would require a revised USACE determination. Off-site locations of activities such as borrow, disposals, haul-and detour-roads and work mobilization site developments may be subject to the USACE regulatory requirements.
- 5) The applicant is responsible for coordinating with and obtaining any required section 9, 10 and/or 404 permit(s) from the United States Army Corps of Engineers (USACE) prior to initiating work. All coordination pertaining to these activities should be documented and copies forwarded to the State and FEMA as part of the permanent project files

- 6) The project has been found by the Louisiana Department of Natural Resources (LDNR) to be inside the Louisiana Coastal Zone; therefore, they require that a complete Coastal Use Permit Application package (Joint Application Form, locality maps, project illustration plats with plan and cross section views, etc.) along with the appropriate application fee be submitted to their office prior to construction.

#### **Hazardous Materials and Spill Response**

- 1) If any solid or hazardous wastes, or soils and/or groundwater contaminated with hazardous constituents are encountered during the project, notification to LDEQ's Single-Point-of-Contact (SPOC) at (225) 219-3640 is required. Additionally, precautions should be taken to protect workers from these hazardous constituents.
- 2) In the event of a spill of hazardous chemicals including petro-chemicals into a waterway or that may come in contact with a waterway the EPA Region 6 – Spill Hotline 866-372-7745 (866-EPA-SPILL) will be called by the acting construction site supervisor.

#### **Floodplain Conditions**

- 1) By Memorandum of 1/4/12 from Frank Pagano, Mitigation Division Director of FEMA Region 6 to John Connolly, Senior Public Assistance Advisor, Louisiana Recovery Office, the 2008 Preliminary Digital Flood Insurance Rate Map (DFIRM) elevation is required for the restroom structure. Applicant is required to coordinate with the local floodplain administrator regarding floodplain permit(s) prior to the start of any activities. All coordination pertaining to these permit(s) should be documented to the local floodplain administrator and copies provided to LA GOHSEP and FEMA as part of the permanent project files. Per 44 CFR 9.11 (d)(9), contents, materials and equipment, where possible, disaster-proofing of the building and/or elimination of such future losses should occur by relocation of those building contents, materials and equipment outside or above the base floodplain.

### **Conclusion**

The results of these evaluations, as well as consultations and input from other federal and state agencies, are presented in the EA. Based on the information analyzed, FEMA has determined that the implementation of the proposed action would not result in significant adverse impacts to the quality of the natural and human environment. In addition, the proposed project does not appear to have the potential for significant cumulative effects when combined with past, present and reasonably foreseeable future actions. As a result of this FONSI, an EIS will not be prepared (per 44 CFR Part 10) and the proposed project as described in the EA may proceed.

### **Public Review and Comment**

The public notice will be published in the local newspaper, *The Advocate*, on the following dates: November 23, 24, 26, 27, and 28, 2012. It will also be published in another local

newspaper, *The Times-Picayune*, on the following dates: November 23, 25, 28, 30 and December 02, 2012. The comment period will be 15 days – beginning on November 23, 2012 and concluding December 7, 2012. Written comments on the EA or related matters can be emailed to [FEMA-NOMA@dhs.gov](mailto:FEMA-NOMA@dhs.gov), faxed to FEMA’s Louisiana Recovery Office at (504) 762-2323; or mailed to FEMA Louisiana Recovery Office, 1 Seine Court, New Orleans, Louisiana 70114. The public notices will announce the availability of the EA for public review at the Orleans Parish Main Library at 219 Loyola Avenue, New Orleans, LA 70112, (hours are 10 a.m. - 6 p.m., Mon. - Thurs., 10 a.m. - 5 p.m., Fri. & Sat.). The EA can also be viewed and downloaded from FEMA’s website at: <http://www.fema.gov/environmental-planning-and-historic-preservation-program/environmental-documents-public-notice-3>.

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Date

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Date