



**FEMA**

**FINDING OF NO SIGNIFICANT IMPACT  
PATRICK'S BAYOU FLOOD MITIGATION PROJECT  
DEER PARK, HARRIS COUNTY, TEXAS  
HMGP-DR-1791-TX PROJECT #79**

**BACKGROUND**

In accordance with 44 Code of Federal Regulations (CFR) for the Federal Emergency Management Agency (FEMA), Subpart B, Agency Implementing Procedures, Part 10.9, an Environmental Assessment (EA) has been prepared pursuant to Section 102 of the National Environmental Policy Act (NEPA) of 1969, as implemented by the regulations promulgated by the President's Council on Environmental Quality (CEQ; 40 CFR Parts 1500-1508). The purpose of the proposed project is to mitigate recurring flooding in the downtown area in Deer Park, Harris County, TX. This EA was written to determine FEMA's decision whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI).

The City of Deer Park has applied for Hazard Mitigation Grant Program (HMGP) funding under HMGP-DR-1791-TX Project #79. Through HMGP, FEMA provides grants to states and local governments to implement long-term hazard mitigation measures, including wildfire mitigation. The purpose of HMGP is to reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during the immediate recovery from a disaster. HMGP is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Two project alternatives were considered in this EA: 1) No Action and 2) Construct a detention storage basin (Proposed Action). Under the No Action Alternative, the City of Deer Park does nothing to address the flooding problem, and recurrent flooding continues to plague the City.

Under the Proposed Action Alternative, two design options for detention were analyzed in the EA. Under Option 1, a single pond area would be built and would involve excavating 29.4 acres of existing land; relocating the existing underground water and sewer pipelines that cross the existing site; and the construction of a single weir and outfall channel system. New water (1,910 linear feet [LF]) and sewer (1,945 LF) lines would be installed along the southern boundary of the proposed detention storage basin. Option 2 involves the construction of two smaller but connected ponds and consists of: excavating 33.4 acres of existing land; localized lowering of the existing water line; and the construction of dual weir and flood channel outfall systems. The existing sewer line will not need to be relocated. Note that both of the two ponds are linked via an overflow weir and underground conveyance conduits. This option, while

eliminating the need to relocate minor conveyance lines is more difficult to construct and maintain due to the need to maintain inter connectivity between the two adjacent ponds.

A 42-acre site has been identified south of SH 225 which is an undeveloped parcel of land (Latitude: 29.70569; Longitude: -95.10944). The proposed project site is a vacant wooded lot. Development exists on three sides of the project sites: SH 225 and railroad tracks on the north, a residential development to the west, an industrial petroleum facility on the east. A vacant, heavily wooded lot lies to the south. These two vacant lots together are an island of undeveloped land on the edge of town.

A drainage channel lies to the west and south of the project site, into which the detention pond will be tied. Upstream floodwaters which are detained in the pond will be emptied into the channel after waters contained in the channel drain downstream into the shipping channel. A smaller parcel of land owned by the City, previously a business property with a parking lot, will be used as a staging area and for access to the site.

#### PUBLIC COMMENT

Public notices were posted in the Deer Park Broadcaster Newspaper on September 16, 2010, and September 30, 2010, and the Draft EA was made available for viewing at City Hall and on the FEMA website for a 30-day public comment period. No comments from the general public were received during the 30-day comment period. However, comments from the Harris County Flood Control District (HCFCD), the joint owner of the proposed detention storage facility were received.

The primary concern raised by the HCFCD was that a previous study performed by the HCFCD under moist soil conditions indicated that 4.33 acres of potential wetlands may exist on site. If wetlands exist, and if the U.S. Army Corps of Engineers (USACE) determine the wetlands to be jurisdictional, then a Section 404 permit from the USACE would be required for the Proposed Action. HCFCD also stated, that even if the USACE does not claim jurisdiction, if wetlands are found to exist, then wetland mitigation measures in accordance with the provisions of Executive Order (EO) 11990 Protection of Wetlands would apply.

Based upon these concerns, the HCFCD recommended that prior to the finalization of construction plans that (i) the USACE be invited to make a formal jurisdictional wetlands determination; and (ii) that if wetlands are found, to include wetland mitigation measures and any applicable USACE permits into the final set of construction documents.

In a letter dated February 24, 2011, the USACE, having coordinated with the Environmental Protection Agency (EPA), concurred with the delineation of wetlands from the previous study, but stated that the subject tract is non-jurisdictional as it does not contain waters of the United States. Therefore the subject tract will not require a Department of the Army permit.

The City of Deer Park has characterized the existing wetlands as follows:

1. Type I - Temporary Wetlands: Approximately 3.8 acres
2. Type III - Seasonal Wetlands: Approximately 0.53 acres
3. Total Wetlands (Type I & III): Approximately 4.33 acres

In order to mitigate the loss of 4.33 acres of non-jurisdictional wetlands, and to remain in compliance with EO 11990, the City of Deer Park must construct an equivalent quantity and type (temporary or seasonal) of wetlands during the construction of the proposed detention storage facility. The City plans to construct these wetlands on the 42-acre project site, but the ultimate location within the site and the design will depend on the detention basin design, topography, and soils information.

## FINDINGS

The Proposed Action as described in the EA is not expected to adversely impact geology, jurisdictional wetlands, coastal resources, federally-listed threatened and endangered species or critical habitat, cultural resources, or minority and low-income populations. During construction activities, short-term impacts to soils, air quality, water quality, wildlife, noise, and public utilities are anticipated. Non-jurisdictional wetlands will be converted, but the loss will be compensated for through the construction of an equivalent quantity and type of wetlands at the project site. Therefore, no long term negative impacts to wetlands are anticipated. Positive impacts to floodplains, downstream water quality, downstream fish populations, and public health and safety are expected. No long-term adverse impacts are anticipated. All adverse impacts require conditions to minimize and mitigate impacts to the proposed project site and surrounding areas.

## CONDITIONS

The following conditions must be met as part of this project. Failure to comply with these conditions may jeopardize the receipt of federal funding.

1. The applicant is required to obtain and comply with all local, state, and federal permits, approvals and requirements prior to initiating work on this project.
2. Contractors are required to water down construction areas as needed in order to mitigate excess dust spreading. Vehicle running times on site will be kept to a minimum and engines will be properly maintained.
3. The applicant must ensure that best management practices (BMPs) are implemented to prevent erosion and sedimentation of nearby or adjacent waterways during construction.

BMPs will include the installation and maintenance of silt fences; stabilized construction entrances; and other related pollution prevention control devices that are site appropriate.

4. The City of Deer Park must construct an equivalent quantity (4.33. acres) and type (temporary or seasonal) of non-jurisdictional wetlands that are being converted during the construction of the proposed detention storage facility.
5. The City of Deer Park must prepare and provide a final public notice 15 days prior to the start of construction activities. Documentation of the final public notice is to be forwarded to FEMA for inclusion in the permanent project files.
6. In the event that a bald or golden eagle nest is discovered on site during construction, the City of Deer Park will stop all work immediately in the vicinity of the nest. The City of Deer Park will inform FEMA immediately of the discovery, and FEMA will consult with the U.S. Fish and Wildlife Service. Work around the nest cannot resume until consultation is completed and appropriate measures have been taken to ensure compliance with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.
7. In the event that archeological deposits, including any Native American pottery, stone tools, bones, or human remains, are uncovered, the project shall be halted and the applicant shall stop all work immediately in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. All archeological findings will be secured and access to the sensitive area restricted. The City of Deer Park will inform FEMA immediately and FEMA will consult with the State Historic Preservation Officer. Work in sensitive areas cannot resume until consultation is completed and appropriate measures have been taken to ensure that the project is in compliance with the National Historic Preservation Act.
8. To reduce noise levels, construction activities must take place during normal business hours. Equipment and machinery used at the proposed project site will meet all local, state, and federal noise regulations.
9. All construction activities will be performed using qualified personnel trained in the proper use of the appropriate equipment, including all appropriate safety precautions. Additionally, all activities will be conducted in a safe manner in accordance with the standards specified in the Occupational Safety and Health Administration (OSHA) regulations. The appropriate signage and barriers shall be in place prior to construction activities to alert pedestrians and motorists of project activities.
10. Changes, additions, and/or supplements to the approved scope of work which alter the existing use and function of the structure, including additional work not funded by FEMA but performed substantially at the same time, will require re-submission of the application prior to construction to FEMA for re-evaluation under the National Environmental Policy Act.

CONCLUSIONS

Based on the findings of the EA, coordination with the appropriate agencies, comments from the public, and adherence to the project conditions set forth in this FONSI, FEMA has determined that the proposed project (Design Options #1 and #2) qualifies as a major federal action that will not significantly affect the quality of the natural and human environment, nor does it have the potential for significant cumulative effects. As a result of this FONSI, an EIS will not be prepared (44 CFR Part 10.9) and the proposed project as described in the attached EA may proceed.

APPROVAL

  
\_\_\_\_\_  
Kevin Jaynes, CHMM  
Regional Environmental Officer  
FEMA Region 6

Date 9/6/11

*for*   
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Tony Russell  
Regional Administrator  
FEMA Region 6

Date 9-6-11