

*Draft Environmental Assessment*

**Galveston Island**

**Telecommunications Tower**

*Galveston County Court House*

*502 ½ 59th Street*

*Galveston, Texas 77551*

Homeland Security Grant Program

2011-SS-00019 (14839)

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**FEMA**

U.S. Department of Homeland Security

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## LIST OF ACRONYMS

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ACHP	Advisory Council on Historic Preservation
AGL	Above Ground Level
APE	Area of Potential Effect
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CO	Carbon Monoxide
CWA	Clean Water Act
dB	Decibel
DHS	Department of Homeland Security
DNL	Day-Night Average Sound Level
EA	Environmental Assessment
EIS	Environmental Impact State
EMS	Emergency Response System
EO	Executive Orders
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
F	Fill
FAA	Federal Aviation Administration
FCC	Federal Communication Commission
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FONSI	Finding of No Significant Impact
FPPA	Farmland Protection Policy Act
GHz	Gigahertz
GLO	General Land Office
kW	Kilowatt
lb	Pound
MHz	Megahertz
NAAQS	National Ambient Air Quality Standards
NAD83	North American Datum of 1983
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NHO	National Hawaiian Organization
NO <sub>2</sub>	Nitrogen Dioxide
NO <sub>x</sub>	Nitrogen Oxide
NPDES	National Pollution Discharge Elimination Systems
NRHP	National Register of Historic Places
O <sub>3</sub>	Ozone
PM <sub>2.5/10</sub>	Particulate Matter 2.5/10 micrometers or less

Pb

S

SFHA

SHPO

SO<sub>2</sub>

SOPs

TAC

TCEQ

TCNS

THPO

UHF

USACE

USDA

USFWS

USGS

VHF

VOCs

Lead

Spoil

Special Flood Hazard Area

State Historic Preservation Office

Sulfur Dioxide

Standard Operating Procedures

Texas Administrative Code

Texas Commission on Environmental Quality

Tower Construction Notification System

Tribal Historic Preservation Office

Ultra High Frequency

United States Army Corps of Engineers

United State Department of Agriculture

United States Fish and Wildlife Service

United States Geological Survey

Very High Frequency

Volatile Organic Compounds

## 1 - INTRODUCTION

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The proposed Galveston Island telecommunications tower site, “Proposed Action”, would provide radio coverage in the area for various federal, state, and local disaster and emergency personnel as part of the statewide interoperability communications project under the Department of Homeland Security (DHS)-Federal Emergency Management Agency’s (FEMA) Homeland Security Grant Program.

This Environmental Assessment (EA) has been prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, the President’s Council on Environmental Quality (CEQ) regulations implementing NEPA (40 Code of Federal Regulations [CFR] Parts 1500 through 1508), and FEMA’s regulations implementing NEPA (44 CFR Part 10). FEMA is required to consider potential environmental impacts before funding or approving actions and projects. The purpose of this EA is to analyze the potential environmental impacts of the Proposed Action (CEQ, 1993 & 1997). FEMA will use the findings in this EA to determine whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI).

## 2 - PURPOSE AND NEED

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Communications interoperability is the ability of emergency responders to communicate among jurisdictions, disciplines, and levels of government using a variety of frequency bands, as needed and as authorized. System operability is required for system interoperability. It means, in any multi-agency, multi-discipline response, everyone is able to communicate as needed.

Communications interoperability is essential for effective and efficient emergency response as it allows emergency response personnel to maximize resources in preparing for major planned events such as sporting events, large community gatherings, or music festivals. Without interoperable communications among police, fire, and Emergency Medical Services (EMS), the lives of Texas citizens and emergency responders are at risk.

Communications operability is the ability of emergency responders to establish and sustain communications in support of mission operations. Mission operations include responding to and recovering from traffic incidents, house fires, medical emergencies, or critical incidents such as hurricanes, tornadoes, and wild land fires. Communications operability is a critical building block for interoperability; emergency response officials first must be able to establish communications within their own agency before they can interoperate with neighboring jurisdictions and other agencies.

To achieve interoperability, emergency responders must either acquire at least three separate radios (for ultra high frequency [UHF], very high frequency [VHF], and 700/800 megahertz [MHz]), or integrate gateway devices which can be limited in capability and range. This inability to communicate, results in greater expense, loss of operational efficiency, and wasted time switching between the radios and channels.

For decades, inadequate and unreliable communications have compromised the ability of emergency responders<sup>[1]</sup> across the nation to perform mission-critical duties. Responders often have difficulty communicating when adjacent agencies are assigned to different radio bands; use incompatible proprietary systems and infrastructure; and lack adequate standard operating procedures (SOPs) and effective multi-jurisdictional, multi-disciplinary governance structures.

Radio communications systems throughout Texas vary greatly and many areas are impacted by limited operability of emergency response radio communications systems. Due to sparsely populated areas, barren regions, and piney forest wilderness areas, much of rural Texas has few land telephone lines and even less cellular telephone service. Even though urban areas tend to have more advanced communication systems, some agencies in these areas are still unable to communicate with other disciplines or neighboring jurisdictions.

Every day, more than 5,300 emergency response agencies respond to emergency and life-threatening incidents throughout Texas. They often rely on antiquated or vendor-proprietary, communication systems that operate in different radio frequency bands (e.g., VHF, UHF, 700/800 MHz) that limit their ability to share vital information with other agencies at the scene of an incident. In some cases, responders are not even able to talk to other responders within their own agency.

There are a variety of challenges to achieving operability and interoperability. Key emergency response communications problems in Texas that are preventing or hampering basic operability and interoperability include, but are not limited to:

- A lack of radio communications equipment (i.e., no radios for some agencies)
- Limited coverage for some agencies
- Obsolete and ineffective radio systems, radio towers, and antenna systems
- Disparate frequency bands
- Radios in one frequency band cannot directly communicate with radios in another band, i.e., VHF radios cannot directly communicate with UHF or 700/800 MHz radios
- Federal Communications Commission (FCC) mandate for narrow banding – failure to meet this requirement by the end of 2012 will result in no voice communications capabilities for non-narrow banded agencies

There is a need for the City of Galveston to upgrade the UHF/VHF communication system that will meet the FCC mandate for narrow banding; to help improve coverage areas; and will support interoperability for talk groups.

### 3 - ALTERNATIVES

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The following alternatives were considered to address the need for radio coverage in all of Galveston County: the No Action alternative, renting space on existing telecommunication tower, and construction of a new 350-foot telecommunications tower for improved coverage in the City of Galveston, Galveston County (Proposed Action).

#### 3.1 Alternatives Considered and Dismissed

Using existing towers for interoperable communication were considered. However, no towers were available for purchase. Renting space on an existing tower was an option; however, rental fees were prohibitively expensive. Therefore, these alternatives were dismissed from consideration and will not be discussed further in this EA.

##### 3.1.1 Alternative 1 – No Action Alternative

The current coverage system would not meet the city's purpose and need to improve the overall radio communications for the City of Galveston. Consequently, the risk of coverage loss during an emergency event would continue to jeopardize command control, rescue, or event analysis operations.

##### 3.1.2 Alternative 2 - Construction of Telecommunication Facility on Galveston Island (Proposed Action)

The Proposed Action, the Galveston Island Tower, site is located on the lawn of the Galveston County Courthouse at 502 ½ 59<sup>th</sup> Street, Galveston County, Galveston, Texas (Figure 1) and (Appendix A). The center of the tower is located approximately at 29.293694 latitude, and -94.833556 longitude of the North American Datum of 1983 (NAD83). The Proposed Action site is shown on the United States Geological Survey (USGS) Galveston, Texas 7.5 Minute Series Topographic Map dated 2010 (USGS, 2010) (Figure 2).

The City of Galveston has analyzed the proposed construction of a telecommunication infrastructure site, including a 350-foot self-support tower with antennas, coaxial cabling, equipment shelter, and associated electronic equipment, to provide improved radio coverage to its existing public safety radio communications system (Figures 3 and 4). The City of Galveston has determined that the Proposed Action would successfully address radio coverage issues.

The Proposed Action will utilize an equilateral triangular pattern with either steel pipe or solid steel legs, and tubular or angle steel cross bracing with bolted construction. The cross bracing is angular solid tubing and is welded to the legs. The sections are hot-dipped galvanized after fabrication. This tower shall be engineered to specifically meet and adequately handle the equipment to be installed.

All materials and services described herein shall be installed at the Proposed Action site. The Proposed Action site shall house the Galveston Island Tower Antenna Networks and Motorola Simulcast equipment to provide connectivity to the City of Galveston.

The specific equipment included with this proposal is identified below.

The Proposed Action will house the equipment identified herein.

- One 350-foot Self Supporting Tower. Structure Class III, Exposure Category C and Topographic Category I.
- One 12x32-foot concrete equipment shelter on raised foundation (15-feet above ground level [AGL]) with an integrated generator room at the north end of the shelter.
- Indoor rated 20-kilowatt (kW) propane generator.
- Motorola provided infrastructure equipment.

#### Galveston Island Tower Antenna Networks

- Motorola provided six Sinclair 806-869 7.5dB fiberglass; 800 MHz SC412-HF2LDF antennas.
- Motorola provided two 5.925 – 6.425 gigahertz (GHz) Parabolic microwave antennas.

All temporary construction staging activities are proposed to occur in the existing paved parking lot located adjacent to the Proposed Action site to the west. Staging will occur for only the amount of time necessary to complete construction of the Proposed Action, approximately 14 weeks. Furthermore, staging will encompass only the necessary amount of space to complete the construction of the Proposed Action, less than 500 square-feet.

Changes may occur due to customer review, permitting and site conditions.

## 4 - AFFECTED ENVIRONMENT AND POTENTIAL IMPACTS

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### 4.1 PHYSICAL ENVIRONMENT

While historic properties, wetlands, prime farmlands, airport runway clear zones and other environmentally sensitive areas exist within the City of Galveston, none of the aforementioned areas are found within the boundaries of the Proposed Action site.

### 4.2 PHYSICAL RESOURCES

#### 4.2.1 *Geology and Soils*

Soil resources include geologic features; and prime and unique farmlands, which are protected under the Farmland Protection Policy Act of 1981 (FPPA) (P.L. 97-98, 7 U.S.C. §4201). The FPPA applies to prime and unique farmlands and those that are of state and local importance. “Prime farmland” is defined as land that has the best combination of physical and chemical characteristics for successfully producing crops. “Unique” farmland is defined as land that is used for the production of certain high-value crops, such as citrus, tree nuts, olives, and fruits. The FPPA requires federal agencies to examine the potentially adverse effects to these resources before approving any action that would irreversibly convert farmlands to nonfarm uses.

The Proposed Action is located within the corporate boundaries of the City of Galveston, within an area of commercial development. Per the Natural Resources Conservation Service, United States Department of Agriculture (USDA) 7 CFR 658.2(a) (USDA, 2000), land within city corporate boundaries is not considered as Farmland and therefore, this site is precluded from FPPA consideration. The Proposed Action is located on *Fill and Spoil* according to the Geologic Atlas of Texas, Houston Sheet, 1982 (Bureau of Economic Geology, 1982). Fill (F) consists of material dredged for raising land surface above alluvium and barrier-island deposits and for creating land. Spoil (S) consist of dredged material along waterways. The Proposed Action does not contain any significant geologic features, prime, or unique farmland. The Proposed Action is located in an urban commercial facility setting and would have no impact on prime or significant farmland. All temporary staging areas will be located on existing concrete paved areas currently used for parking by the existing facility; or in the landscaped grass lawn of the existing facility. No impacts related with temporary staging for the Proposed Action are anticipated.

No Action Alternative - Under the No Action alternative, no impacts to geology; or prime or important farmland soil would occur.

Proposed Action Alternative - Under the Proposed Action, no significant impacts to geologic features, prime, or important farmland would occur. Excavated soil and waste materials will be managed and disposed of in accordance with applicable local, state, and federal regulations. If contaminated materials are discovered during the construction activities, the work will cease until the appropriate procedures can be implemented and permits obtained. Any hazardous materials discovered, generated, or used during construction will be handled and disposed of in

accordance with applicable local, state, and federal regulations. The total area of disturbance is less than 1 acre. The project site is not considered prime farmland.

#### **4.2.2 Air Quality Protection**

The Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to set National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health and the environment. The Clean Air Act established two types of national air quality standards: primary standards set limits to protect public health, including the health of “sensitive” populations such as asthmatics, children, and the elderly, and secondary standards set limits to protect public welfare, including protection against decreased visibility, damage to animals, crops, vegetation and buildings. The current criteria pollutants are: Carbon Monoxide (CO), Nitrogen Dioxide (NO<sub>2</sub>), Ozone (O<sub>3</sub>), Lead (Pb), Particulate Matter of 2.5 or 10 micromeres or less (PM-2.5 and PM-10), and Sulfur Dioxide (SO<sub>2</sub>) (NAAQS, 2011).

Air pollution emissions were evaluated for the Proposed Action and were compared to the emission rates in 40 CFR 93.153(b)(1). Under general conformity an action is deemed exempt, even if it is to be located in a designated nonattainment county, if the total direct and indirect emissions are less than the specified rates in 40 CFR 93.153(b)(1). The Proposed Action total emissions per pollutant were significantly less than the de minimis limits shown in the following table:

List of EPA’s NAAQS’s Per Criteria Pollutant (NAAQS, 2011)

EPA’s NAAQS’s	Tons/Year
Ozone (VOC’s or NO <sub>x</sub> ):	
Series NAAQS’s	50
Severe NAAQS’s	25
Extreme NAAQS’s	10
Carbon Monoxide: All NAAQS’s	100
SO <sub>2</sub> or NO <sub>2</sub> : All NAAQS’s	
PM-10:	100
Moderate NAAQS’s	100
Serious NAAQS’s	70
PM-2.5:	
Direct Emissions	100

## Proposed Action Total Emission Calculation (calculations conducted by Prudent)

Emission Category	CO (lb)	NO <sub>x</sub> (lb)	PM-10 (lb)	PM-2.5 (lb)	SO <sub>2</sub> (lb)	VOC (lb)
Construction Equipment	15.46	29.87	4.44	4.44	7.3	4.98
Fugitive Emissions	NA	NA	198	198	NA	NA
Generator Actual Emissions	873.14	25.69	0.08	0.08	0.01	9.87

**Key:**

CO – Carbon Monoxide

EPA – Environmental Protection Agency

lb - Pounds

NAAQS – National Ambient Air Quality Standards

NO<sub>2</sub> – Nitrogen DioxideNO<sub>x</sub> – Nitrogen OxidePM<sub>2.5/10</sub> - Particulate Matter 2.5/10 micrometers or lessSO<sub>2</sub> – Sulfur Dioxide

VOC – Volatile Organic Compounds

Projects located in non-attainment areas must also demonstrate that the project's direct and indirect emissions are not regionally significant. A non-attainment area is defined under Texas Administrative Code (TAC) regulations, Title 30, Chapter 101, Rule §101.1, 1976, as having direct and indirect emissions that are 10 percent or more of the non-attainment or maintenance area's emissions inventory for that pollutant. The individual pollutant emissions for the Proposed Action are less than one ton for each of the following: (CO), (NO<sub>2</sub>), (PM-2.5 and PM-10), and (SO<sub>2</sub>) which are considered to be de minimis. Because the emissions are insignificant under the State of Texas Air Regulations, the Proposed Action's activities pose no significant impact.

The emergency generators are regulated under the Texas Commission on Environmental Quality (TCEQ) permit by rule, Title 30 Chapter 30 Rule §106.511 (TCEQ, 2000). To comply with Rule §106.511, the operator must be able to show a letter from the site owner stating that the site is covered under Rule §106.511 Permit by Rule. The owner must also demonstrate that the emergency generator operating hours do not exceed 10% of the normal annual operating schedule. For emergency generators, this has been defined by the federal government as 500 or less hours on a rolling annual basis. It is recommended that the emergency generators should be equipped with an hour meter.

No Action Alternative - Under the No Action alternative, there would be no impacts to air quality because no construction would occur.

Proposed Action Alternative - Under the Proposed Action, there could be short-term minor impacts to air quality during the construction phase due to heavy equipment use. Measures would be taken to limit emission of fugitive dust, including watering down of construction areas. Typically, construction/upgrade related to air quality impacts will last only for the duration of construction/upgrade activities and occur during normal working hours (i.e., 7:00 a.m. to 5:00 p.m.), and will not likely increase air pollutants. In addition, episodic emissions from the

emergency generator would occur during routine maintenance, testing, and from during emergency use. Since the emergency generator is designed for short-term use, emissions are anticipated to be de minimis (TAC Title 30, Part 1, Chapter 101, Rule §101.1). De minimis condition is one that generally does not present a threat to human health or the environment and generally would not be subject to a regulatory enforcement action. None of the above referenced emissions will cause an exceedance or further exasperation of the ambient air quality standards. No significant impacts to air quality are anticipated.

### **4.3 WATER RESOURCES**

Water resources are streams, lakes, rivers, and other aquatic habitats in an area and include surface water, groundwater, wetlands, floodplains, coastal resources, and wild and scenic rivers. Water resources, such as lakes, rivers, streams, canals, and drainage ditches, make up the surface hydrology of a given watershed. Federal statutes, executive orders (EO), and other regulations and directives protect water quality and the beneficial uses of water resources. EO 11988 (Floodplain Management) and EO 11990 (Protection of Wetlands) mandate the control of activities that indirectly influence water quality.

#### ***4.3.1 Water Quality***

The ground disturbance of the Proposed Action will be less than 0.25 acres which includes the compound area and temporary construction staging area. Due to the limited construction activities, the small amount of ground disturbance, and because no new ground disturbance will occur outside the specified area, a National Pollution Discharge Elimination System (NPDES) permit is not necessary for the Proposed Action. Construction activities will not require any significant amounts of water; therefore, the generation of wastewater will be minimal. There are no streams in the immediate area of the Proposed Action. According to EPA Region 6, the Proposed Action does not lie over a sole source aquifer (EPA, 2008).

Due to the limited construction and operational footprint, the Proposed Action, which is located on the lawn of a commercial building, will have little or no impact on surface water quality.

No Action Alternative - Under the No Action alternative, no impacts to surface water resources would occur.

Proposed Action Alternative - Under the Proposed Action, there would be no significant impacts to surface water.

#### ***4.3.2 Wetland Protection***

The United States Army Corps of Engineers (USACE) regulates the discharge of dredged or filled material into waters of the U.S., including wetlands, pursuant to Section 404 of the Clean Water Act (CWA). Additionally, EO 11990 (Protection of Wetlands) requires federal agencies to avoid, to the extent possible, adverse impact of wetlands (EO 11990, 1977).

No Action Alternative - Under the No Action alternative, no impacts to wetlands would occur.

Proposed Action Alternative - According to the United States Fish and Wildlife Services (USFWS) National Wetland Inventory Map (Figure 8) freshwater forested/shrub wetlands are located approximately 270 feet north of the Proposed Action site; and freshwater emergent wetlands are located approximately 300 feet northwest of the Proposed Action site (USFWS, 2012). Under the Proposed Action, no impacts to wetlands are anticipated, because the Proposed Action is located on the lawn of an existing commercial building complex and not located in a wetland. Furthermore, at the time of the site reconnaissance, there was no evidence of potential wetlands, or hydrophytic vegetation at the site. Based on the findings of this review, the Proposed Action will result in no effects to wetlands.

### **4.3.3 Floodplains**

EO 11988 (Floodplain Management) requires federal agencies to take action to minimize occupancy and modification of the floodplain. Specifically, EO 11988 prohibits federal agencies from funding construction in the 100-year floodplain unless there are no practicable alternatives (EO 11988, 1977).

The City of Galveston participates in the Flood Insurance Rate Map (FIRM) process and FIRM map 4854690022E (Effective Date December 6, 2002) was used to determine that the Proposed Action flood hazard (FEMA, 2002) (Figure 6). A review of the FIRM determined that the Proposed Action is located in Zone AE of the *Special Flood Hazard Area (SFHA) subject to inundation by the 1% annual chance flood*. The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood. In Zone AE, the base flood elevations are determined.

As per EO 11988 and 44 CFR Part 9, all projects in the floodplain must be assessed for floodplain impacts and alternatives. FEMA uses an Eight-Step process (44 CFR 9.6) for their floodplain impacts and alternatives analysis. This Eight-step process is applied to the proposed Galveston Island Tower, Galveston County, Texas. Most of Galveston County is located in the 100-year floodplain. The steps in the decision making process are as follows.

#### **Step 1 Determine if the Proposed Action Alternative is located in the Base Floodplain**

The Proposed Action involves the construction of a proposed communication tower. FEMA has determined that the Proposed Action Alternative is located in a 100-year floodplain, Zone AE (Areas of 100-year flood; base flood elevations and flood hazard factors determined), as depicted on FIRM Community Panel 4854690022E, with the effective date December 6, 2002 (Figure 6).

#### **Step 2 Early public notice (Preliminary Notice)**

A public notice for the Proposed Action will be published in the regional newspaper, the *Galveston Daily News*, as part of the notice of availability for this EA.

#### **Step 3 Identify and evaluate alternatives to locating in the base floodplain**

Within this region, the floodplain in the vicinity of the Propose Action site is extensive and no alternate sites meeting the technical requirements for the Propose Action were identified outside

the floodplain. Therefore no practicable alternative outside of the floodplain exists that could concurrently accommodate the future needs of Galveston County and minimize impacts to the natural environment.

#### **Step 4 Identify impacts of Proposed Action Alternative associated with occupancy or modification of the floodplain**

##### Impact on natural function of the floodplain

The Proposed Alternative would not affect the functions and values of the 100-year floodplain nor would it impede or redirect flood flows. The Proposed Alternative would be located in a partially developed area with existing infrastructure. When compared to the extensive floodplain area, the Proposed Alternative will have little potential to impact the floodplain. Therefore, the Proposed Alternative should not result in an increased base discharge or increase the flood hazard potential to other structures.

##### Impact of the floodwater on the proposed facilities

The Proposed Alternative has been designed to minimize impacts from flooding. This tower is considered a critical facility because it's intended to support emergence staff and first responders. Therefore, the communications equipment at the facility will be elevated at least three feet above the 500-year flood elevation (where mapped). In areas where the 500-year floodplain is not mapped, the equipment will be elevated a minimum of three feet above the 100-year base flood elevation. The FIRM depicting the site location does not include areas of 500-year flood; therefore, the support equipment at this facility will be elevated at least three feet above the 100-year base flood elevation. Elevating the equipment will minimize the environmental impacts associated with construction within the 100-year floodplain. The potential damages from a 100-year flood event are expected to be negligible.

#### **Step 5 Design or modify the Proposed Action Alternative to minimize threats to life and property and preserve its natural and beneficial floodplain values**

In order to reduce the impact identified in Step 4 of flood hazards on the proposed new facilities, the Proposed Action will be designed to be compliant with FEMA recommendations for construction in flood hazard areas.

The Applicant must follow all applicable local, state, and federal laws, regulations and requirements and obtain and comply with all required permits and approvals, prior to initiating work on this project. Applicant must coordinate with the local floodplain administrator and obtain required permits prior to initiating work. All coordination pertaining to these activities and applicant compliance with any conditions should be documented and copies forwarded to the state and FEMA for inclusion in the permanent project files. No staging of equipment or project activities shall begin until all permits are obtained.

#### **Step 6 Re-evaluate the Proposed Action Alternative**

Per the discussions above, the proposed site will be appropriately designed for the 100-year floodplain. The Proposed Alternative will not aggravate the current flood hazard because the project would not impede or redirect flood flows. The project will not disrupt floodplain values

because it will not change water levels in the floodplain. Therefore, it is still practicable to construct the proposed project within the floodplain. Alternatives consisting of locating the project outside the floodplain or taking “no action” are not practicable.

### **Step 7 Findings and Public Explanation (Final Notification)**

In accordance with 44 CFR §9.12, Galveston County must prepare and provide a final public notice 15 days prior to the start of construction activities. Documentation of the public notices will be forwarded to FEMA for inclusion in the permanent project files.

### **Step 8 Implement the action**

Galveston County will incorporate into the design necessary mitigation efforts for building within a 100-year floodplain.

As a result of this Eight-step process, FEMA has determined that the Galveston Island Tower, Galveston County is in compliance with 44 CFR §9.6 because there are no practicable alternatives outside the 100-year floodplain.

No Action Alternative - Under the No Action alternative, construction activities would not take place and there would be no potential impacts to floodplains.

Proposed Action Alternative - Under the Proposed Action, no impacts to floodplains are anticipated, because the entirety of Galveston City exists in the SFHA. In the city of Galveston, there are no practicable alternatives from building in the 100-year floodplain. The Proposed Action site is on an existing lawn of a commercial building complex and will apply the same mitigation measures as are applied to all construction that takes place in the city of Galveston.

## **4.4 COASTAL RESOURCES**

According to the US Fish and Wildlife Coastal Barrier Map (Figure 7) and the Texas General Land Office (GLO) Coastal Management Map (Figure 9), the Proposed Action is not located within the US Fish and Wildlife Coastal Barrier System (USFWS, Chafee); however, the Proposed Action is within the Coastal Management Zone Boundary as defined by the GLO (GLO, 1996).

The entirety of Galveston City exists in the GLO’s Coastal Management Zone Boundary. In the City of Galveston, there are no practicable alternatives from building in the Coastal Management Zone Boundary. Furthermore, the equipment shelter will be constructed on top of an elevated concrete platform, elevated to 15-feet AGL. Based on consultation with GLO and review of Coastal Coordination Council General Concurrence #5 Letter, FEMA has determined that this project is deemed consistent with the goals and policies of the Texas Coastal Management Program and consistency review procedures as implemented by the GLO (Appendix C). Based on the findings of this review, the Proposed Action will result in no significant effects to coastal resources.

## 4.5 BIOLOGICAL RESOURCES

Biological resources are animals, plants, and their habitats that are native to an area, including threatened or endangered species. In general, biological resources can include native and introduced plants that comprise the various habitats, animals present in such habitats, and natural areas that help support these plant and wildlife populations. The Endangered Species Act (ESA) (16 U.S.C. §1531) requires federal agencies to conserve endangered species by listing endangered and threatened species of plants and animals and designating the critical habitat for animal species. The ESA defines an endangered species as any species in danger of extinction throughout all or a significant area of its range and a threatened species as any species likely to become endangered in the near future (ESA, 1973).

### *4.5.1 Threatened and Endangered Species and Critical Habitat and Wildlife and Fish*

In accordance with Section 7 of the ESA, the Proposed Action area was evaluated for the potential occurrences of federally listed threatened and endangered species. The ESA requires any federal agency that funds, authorizes, or carries out an action to ensure that their action is not likely to jeopardize the continued existence of any endangered or threatened species (including plant species) or result in the destruction or adverse modification of designated critical habitats (FEMA, 1996).

According to the United States Fish and Wildlife Service Species Reports, the following threatened and endangered species have been identified as occurring within the boundaries of Galveston County (USFWS, Southwest Region, Endangered Species):

- Attwater's Great Prairie Chicken – *Tympanuchus cupido attwateri*
- Eskimo Curlew – *Numenius borealis*
- Piping Plover – *Charadrius melodus*
- West Indian Manatee – *Trichechus manatus*
- Hawksbill Sea Turtle – *Eretmochelys imbricate*
- Leatherback Sea Turtle – *Dermochelys coriacea*
- Kemp's Ridley Sea Turtle – *Lepidochelys Kempil*
- Green Sea Turtle – *Chelonia mydas*
- Loggerhead Sea Turtle – *Caretta caretta*

Habitats for these species were compared to the habitat observed at the Proposed Action site; the tower construction is proposed on the turf-grass lot owned by Galveston County's Courts Department. None of the habitats for these species were observed on the site and habitat was not identified with a potential to be found at the Proposed Action site.

No Action Alternative - Under the No Action alternative, no impacts to threatened or endangered species would occur.

Proposed Action Alternative – Under the Proposed Action, no impacts to threatened or endangered species are anticipated. FEMA has determined that this project, as defined by the scope of work and current land use, will not have an effect on federally listed threatened and endangered species or their associated critical habitats.

The vegetation in and adjacent to the Proposed Action consists of landscaped turf-grass. The entire area is a developed commercial facility. All of the vegetation within the Proposed Action area has been planted for landscaping purposes and none of the vegetation within the Proposed Action area is in a native state.

#### ***4.5.2 Migratory Birds***

Under the Migratory Bird Treaty Act, taking, killing or possessing migratory birds is unlawful (USFWS, 1918). Migratory birds are a federal trust resource that the US Fish and Wildlife Service (USFWS) is authorized to protect, and the USFWS has put forth recommendations for communication tower design and height to mitigate collision-related mortality. Mitigation measures outlined in the Service Interim Guidelines For Recommendations On Communications Tower Siting, Construction, Operation and Decommissioning issued by the US Fish and Wildlife Service will be implemented as practical for this Proposed Action (USFWS, Clark). Galveston County is located within the Central Flyway for migratory birds (USFWS, 2011). Fall and spring migrants use the region for temporary stops during travel between the northern and southern hemispheres. Best management practices should be implemented for avoiding harassment and harm to migratory birds during construction activities. Impacts on migratory birds could be expected as a result of collision with operating towers, antennae, and other tall structures, particularly during periods of low visibility and as a result of tower lighting that might be distracting to some species. The probability of collision is difficult to determine programmatically due to the range of variables that affect the potential for collision and the lack of conclusive data on the causes of collision.

No Action Alternative - Under the No Action alternative, no impacts to migratory birds would occur.

Proposed Action Alternative - Under the Proposed Action, the following measures will be included to mitigate bird collision. The Proposed Action will be located in an area that has been previously disturbed to avoid habitat loss. The Proposed Action will not utilize guyed-line designed and will be a self-support tower. FAA required, non-high intensity lighting will be mounted to the tower for visual awareness. The Proposed Action will allow for additional tower collocation to reduce the need for additional towers in the area.

## **4.6 CULTURAL RESOURCES**

The environment surrounding the Proposed Action location consists of a concrete building, concrete parking and sidewalks that are primarily commercial in nature. The adjacent properties

are commercial or industrial in nature. None of the adjacent properties are listed on the National Register of Historic Places (NRHP) (Texas Historical Commission, State Historical Site).

In addition to review under NEPA, consideration of impacts to cultural resources is mandated under Section 106 of the National Historic Preservation Act (NHPA), as amended, and implemented by 36 CFR Part 800. Requirements include identification of significant historic properties that may be impacted by the Proposed Action. Historic properties are defined as archaeological sites, standing structures, or other historic resources listed in or eligible for listing in the NRHP.

As defined in 36 CFR Part 800.16(d), the Area of Potential Effect (APE), “is the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if such properties exist.”

#### ***4.6.1 Historic Properties***

The Texas State Historic Preservation Office (SHPO) has determined in a letter dated July 20, 2012, the Proposed Action will have No Adverse Effect upon historic resources and no further consultation is necessary under Section 106 (Appendix B).

Project reviewed by FEMA per the Advisory Council on Historic Preservation (ACHP) Program Comment for Streamlining Section 106 Review for Wireless Communication Facilities Under the FCC Nationwide Programmatic Agreement and/or the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, effective October 23, 2009. FCC Form 620 and SHPO consultation reviewed by FEMA on February 14, 2012. FEMA concurs with this review and has no further compliance responsibilities.

No Action Alternative - Under the No Action Alternative, no impacts to cultural resources would occur.

Proposed Action Alternative - Under the Proposed Action, no impacts to cultural resources are anticipated. 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 applicant will inform FEMA immediately, FEMA will consult with the SHPO or Tribal Historic Preservation Office (THPO), and Tribes. 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 NHPA.

#### ***4.6.2 American Indian/Native Hawaiian/Native Alaskan Cultural/Religious Sites***

Section 106 of the NHPA and its implementing regulations, “Protection of Historic Properties” (36 CFR Part 800) and the Nationwide Programmatic Agreement on the Collocation of Wireless Antennas (adopted March 16, 2001), and the Nationwide Programmatic Agreement effective March 7, 2005, require consultation with Native American tribal groups and Native Hawaiian organizations (NHO) regarding proposed projects and potential impacts to Native American

religious sites. In order to determine which Native American tribal groups may potentially have areas of cultural interest within this area of Texas, Prudent submitted to the Tower Construction Notification System (TCNS) on May 16, 2012 and referenced as TCNS# 85731. Prudent requested government to government consultation between the FCC and tribal groups that had not responded by June 15, 2012.

The FCC responded on July 19, 2012 that the FCC – Tribal Consultation process had been initiated. A 20-day period has elapsed since initiation of the FCC – Tribal Consultation process and no further tribal responses have been received, therefore, in accordance with the FCC Declaratory Ruling FCC 05-176, the Tribal Consultation process is considered complete. Copies of correspondence are attached in Appendix B of this report.

Project reviewed by FEMA per the ACHP's Program Comment for Streamlining Section 106 Review for Wireless Communication Facilities Under the FCC Nationwide Programmatic Agreement and/or the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, effective October 23, 2009. FCC Form 620 and SHPO consultation reviewed by FEMA on February 14, 2012. FEMA concurs with this review and has no further compliance responsibilities.

While no Native American religious grounds or archeological deposits are known to be in the area of the site, buried cultural materials might still be present. 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 applicant will inform FEMA immediately, FEMA will consult with the SHPO or THPO, and Tribes. 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. Based on SHPO and Tribal Consultation determined that this Proposed Action will not result in a significant impact on sites that are culturally significant to Native Americans.

No Action Alternative - Under the No Action Alternative, no impacts to Indian religious or archaeological sites would occur.

Proposed Action Alternative - Under the Proposed Action, no impacts to Indian religious or archaeological sites are anticipated.

#### **4.7 SOCIOECONOMIC RESOURCES**

The City of Galveston was founded by European settlements in 1816 but is known to have been inhabited since the early 1500's by Native American Tribes. The city is located within the Houston-Sugar Land Baytown metropolitan area and is the second largest in Galveston County. The Proposed Action is located at the Galveston County Courts building in a commercial area. The city's population was reported to be 47,743 according to the 2010 U.S. Census.

#### ***4.7.1 Environmental Justice (Executive Order 12898)***

EO 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) mandates that federal agencies identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority and low-income populations.

According to [city-data.com](http://city-data.com) (city-data.com, 2012), the estimated median household income in Galveston County was \$37,055 in 2009. The average wage per job was \$37,890 in 2005. In 2003, 13.7 percent of residents living in Galveston County were below the poverty level. The amount of whites/non-Hispanics consists of 45.0 percent, Hispanics make up 31.3 percent, and the remainder of all other races including Blacks, Asians and American Indian make up 23.9 percent of Galveston County residents.

**No Action Alternative** - Under the No Action Alternative, there would be no disproportionately high and adverse effects on minority or low-income populations. All populations could potentially be adversely affected by a loss of radio coverage during an emergency.

**Proposed Action** - Under the Proposed Action, no disproportionately high and adverse impacts on minority or low-income populations are anticipated. The radio coverage upgrade would benefit all populations by improving communication related to public safety.

#### ***4.7.2 Noise***

Noise is generally defined as unwanted sound. Sound is most commonly measured in decibels (dB) on the A-weighted scale, which is the scale most similar to the range of sounds that the human ear can hear. The Day-Night Average Sound Level (DNL) is an average measure of sound. The DNL descriptor is accepted by federal agencies as a standard for estimating sound impacts and establishing guidelines for compatible land uses. EPA guidelines, and those of many other federal agencies, state that outdoor sound levels in excess of 55 dB DNL are “normally unacceptable” for noise-sensitive land uses such as residences, schools, or hospitals (USEPA, 1974).

The Proposed Action is located in the lawn of the Galveston County Courts Building. Because of the occasional and intermittent operation of the emergency backup propane generator, the Proposed Action is not anticipated to cause adverse long-term impacts or measurably increase the ambient noise levels. Impacts to ambient noise levels resulting from the Proposed Action would not exceed typical operating noise levels and would be short-term. Therefore, no significant long-term noise impacts are expected.

**No Action Alternative** - Under the No Action alternative, no impacts to noise would occur.

**Proposed Action Alternative** - Under the Proposed Action, temporary short-term increases in noise levels are anticipated due to construction activities and the use of heavy equipment. The Proposed Action does not readily create noise, except for occasional backup power generator activation. There are no noise sensitive land uses within the Proposed Action area.

### ***4.7.3 Solid Waste***

Due to limited construction activities and the prefabricated nature of the main equipment components, no significant solid waste will be generated, nor will any regulated, permit requiring amounts of hazardous waste be generated during the construction activities. The Proposed Action will have little or no impact on waste management (hazardous waste/solid waste/asbestos).

No Action Alternative - Under the No Action alternative, there would be no impacts to waste management because no construction would occur.

Proposed Action Alternative - Under the Proposed Action, no significant impacts to waste management are anticipated.

### ***4.7.4 Man-Made Hazards***

The Proposed Action is not being constructed for residential, institutional, recreational, commercial or industrial use and mitigating hazardous materials or hazardous gases will not be necessary.

This portion of the review will not be subjected to additional scrutiny because the proposed action will not result in the construction of residential, institutional, recreational, commercial or industrial usage.

No Action Alternative - Under the No Action alternative, no man-made hazards would need to be mitigated.

Proposed Action Alternative - Under the Proposed Action, no man-made hazards would need to be mitigated.

### ***4.7.5 Infrastructure***

The Proposed Action is in a developed commercial area, minimal infrastructure would be needed to support the proposed telecommunications tower. Commercial utility power is located on the parent property and is adjacent to the Proposed Action location, and there is currently an existing access road to the site. No significant amount of trenching activities are anticipated. The only anticipated trenching activities will be for utility lines (maximum three-feet in depth) to connect the tower to the existing electrical grid. The addition of the Proposed Action would improve interoperable emergency communications coverage in the area. The requirements to power the Proposed Action would be within the capacity of the existing system, and the Proposed Action would have no significant impacts to infrastructure.

No Action Alternative - Under the No Action alternative, no infrastructure requirements would need to be mitigated.

Proposed Action Alternative - Under the Proposed Action, no significant infrastructure requirements would need to be mitigated.

## 5 - SUMMARY

The overall physical environment within the Proposed Action area will not be significantly impacted by the construction of the proposed telecommunications tower. Therefore, no significant mitigation measures will need to be implemented as a result of the construction and operation of this Proposed Action.

The table below summarizes the potential impacts of the Proposed Action Alternative, and identifies conditions or mitigation measures to minimize those impacts, where appropriate. Following the summary table, each environmental area is explained in detail.

Affected Environment/ Resource Area	Impacts	Agency Coordination/Permits	Mitigation/BMPs
Geology and Soils	No Impacts to Geology  No Significant Impacts to Soil.  Total area of disturbance is less than 1 acre	None	Excavated soil and waste materials will be managed and disposed of in accordance with applicable local, state, and federal regulations.
Air Quality and Noise	Minor, short-term Impacts due during construction	None	Measures would be taken to limit emission of fugitive dust, including watering down of construction areas. Typically, construction/upgrade related to air quality impacts will last only for the duration of construction/upgrade activities and occur during normal working hours (i.e., 7:00 a.m. to 5:00 p.m.).
Water Quality	No Significant Impacts	None	None
Wetland Protection	No Impacts	None	None
Floodplains	No Significant Impacts	Applicant must coordinate with the local floodplain administrator and obtain required permits prior to initiating work.	The support equipment at this facility will be elevated at least three feet above the 100-year base flood elevation.
Coastal Resources	No Significant Impacts	Coastal Coordination Council General Concurrence #5 Letter	None
Threatened and Endangered Species and Migratory Birds	No Significant Impacts	None	FWS "Service Guidance on Siting, Construction, Operation and Decommissioning of Communication Towers (September 2000)"
Historic Properties	No Impacts	SHPO July 20, 2012	None

<b>Affected Environment/ Resource Area</b>	<b>Impacts</b>	<b>Agency Coordination/Permits</b>	<b>Mitigation/BMPs</b>
American Indian/Native Hawaiian/Native Alaskan Cultural/Religious Sites	No Impacts	FCC August 8, 2012	None
Environmental Justice	Beneficial Impacts	None	None
Solid Waste	No Impacts	None	None
Man-made Hazards	No Impacts	None	None
Infrastructure	No Impacts	None	None

## **6 - CUMULATIVE IMPACTS**

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Cumulative impacts are those effects on the environment that result from the incremental effect of an action when added to past, present and reasonably foreseeable future actions, regardless of what agency (federal or nonfederal) or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

There are no known on-going or planned projects in the vicinity of the Proposed Action location. Therefore, no cumulative impacts are anticipated.

## 7 - PUBLIC PARTICIPATION

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The availability of this EA will be advertised by public notice in the Galveston Daily News. Copies of the EA will be available at the Rosenberg Library, located at 2310 Sealy Street, Galveston, Texas 77550. The public comment period will extend for a period of fifteen (15) days. The EA can also be viewed and downloaded from the FEMA's website at <https://www.fema.gov/environmental-documents-and-public-notice-in-region-vi>. If no substantive comments are received, the EA will become final and the initial public notice will also serve as the final public notice. The EA will then be archived on FEMA's website at <http://www.fema.gov/library/>.

## **8 - PERMITS**

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The applicant and their contractors are required to comply with all applicable federal, state tribal and local laws, regulations, etc. and obtain all required permits.

## 9 - CONCLUSION

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No impacts to geology, wetlands, cultural resources environmental justice, solid waste, man-made hazards, or infrastructure are anticipated under the Proposed Action. During the construction period, there are potential short-term and minor impacts to soils, surface water, air quality, and noise. Impacts to the floodplain will not be significant. All short-term and non-significant impacts require conditions to minimize and mitigate impacts to the Proposed Action location and surrounding areas. The proposed 350-foot telecommunications tower could have potential adverse impacts on migratory birds. However, the tower's location outside of sensitive habitats and flyways, the absence of guyed wires, and the use of no high intensity lighting (i.e., low intensity lighting) would mitigate collision-related bird mortality.

The new 350-foot communications tower would be a great asset to the residents of the City of Galveston and Galveston County in the event of an emergency. Fire fighters, rescue squad and the sheriff's department would be able to communicate with each other in almost the entire county.

## **10 - LIST OF PREPARERS AND ATTACHEMNTS**

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This EA was prepared by:

Prepared by: Tomas Hernandez, Jr., P.G.  
Morgan M. Helfrich  
Prudent Environmental Services, Inc.

### **Government Contributors**

Kevin Jaynes, Regional Environmental Officer, FEMA Region 6  
Alan Hermely, Environmental Specialist, FEMA Region 6

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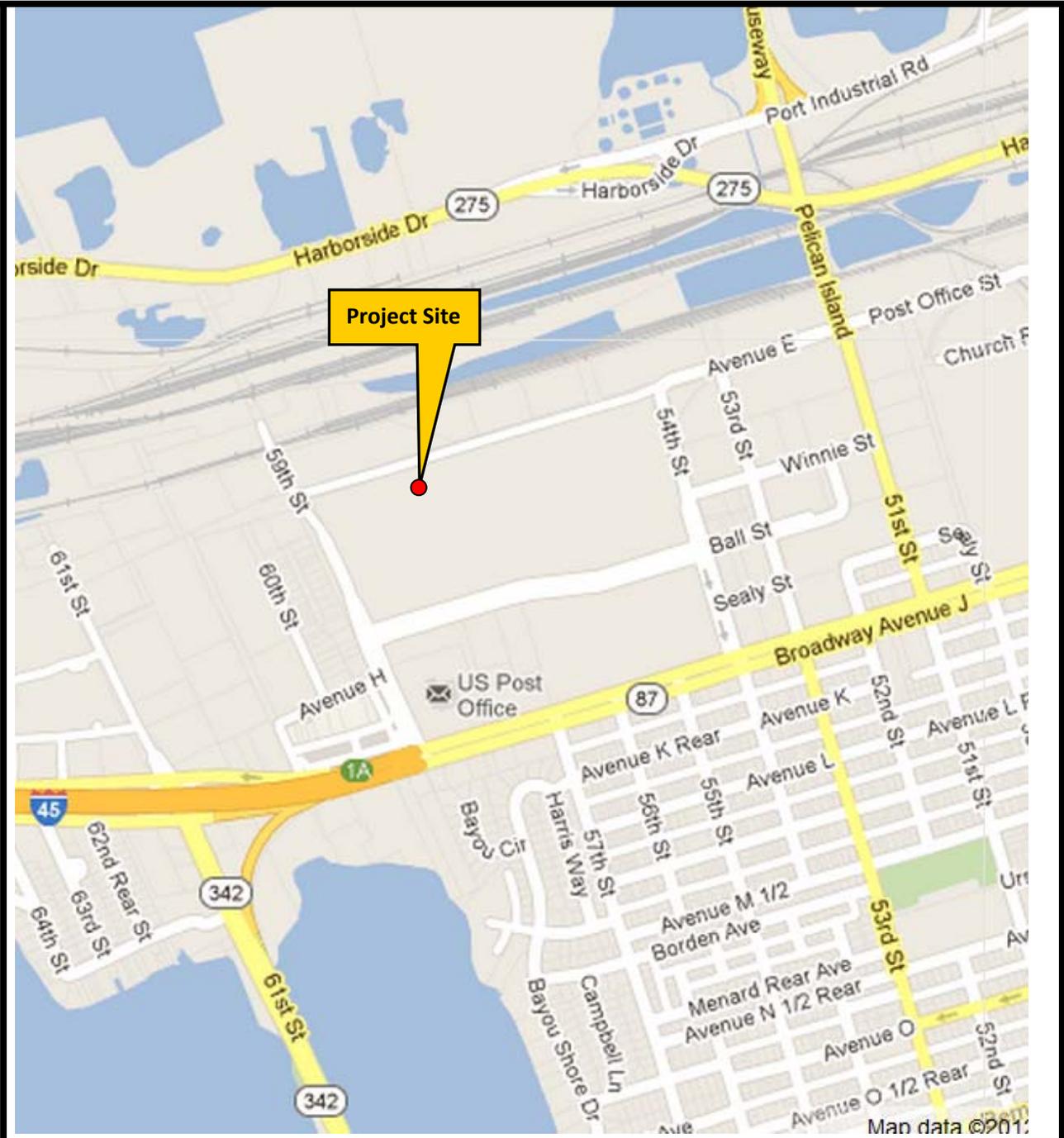
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## **FIGURES**

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- Figure 1: Vicinity Map
- Figure 2: Topographic Map
- Figure 3: Site Plan
- Figure 4: Site Overview
- Figure 5: Aerial Map
- Figure 6: FEMA Map
- Figure 7: Coastal Barrier Systems Location Map
- Figure 8: Nation Wetlands Inventory Map
- Figure 9: Texas Coastal Management Programs Map



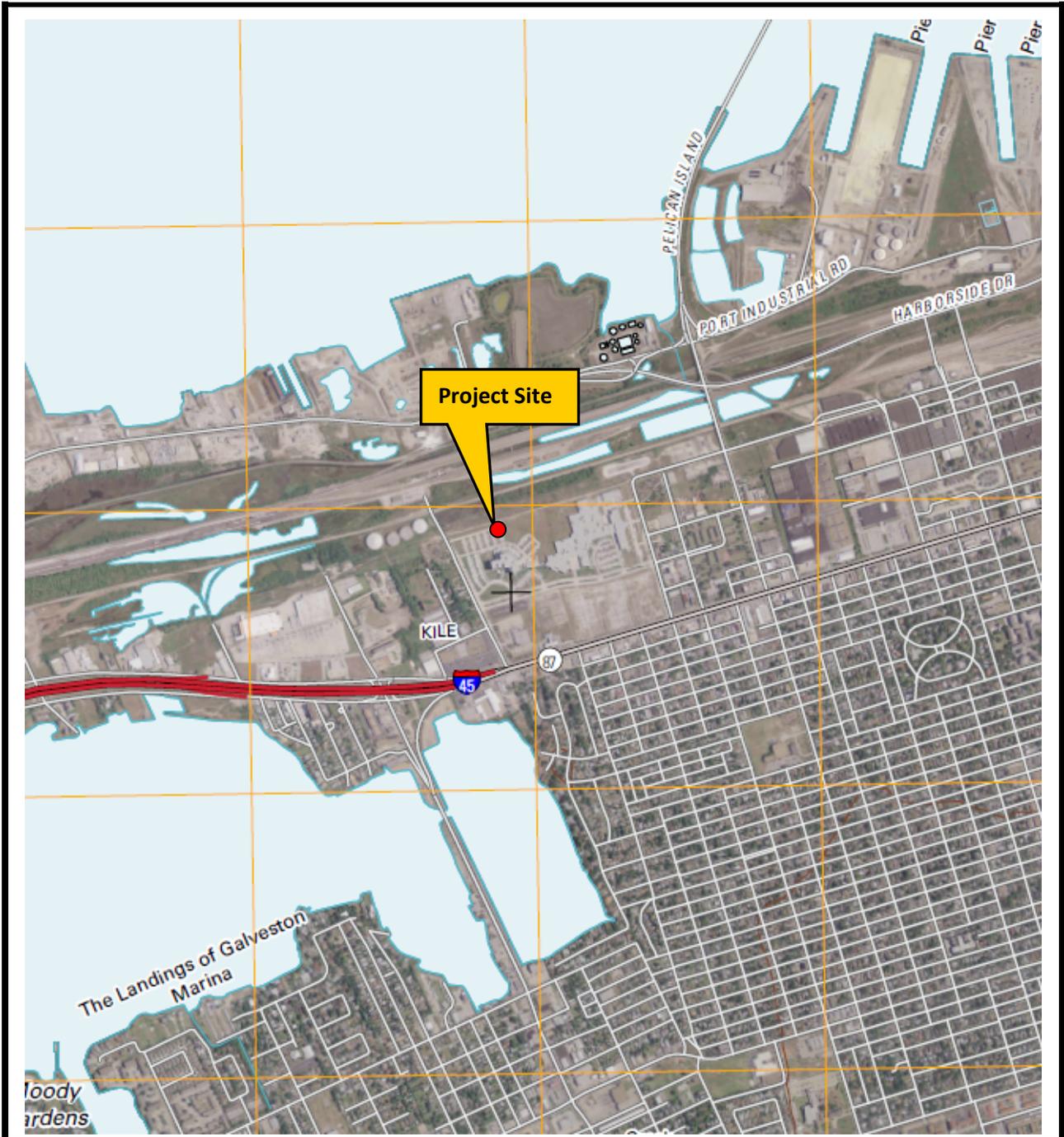
**VICINITY MAP**

**FIGURE 1**  
(Not to Scale)



**Site Name:** Galveston Island Tower  
502 ½ 59<sup>th</sup> Street  
Galveston, Texas

**Project Number:** C312007



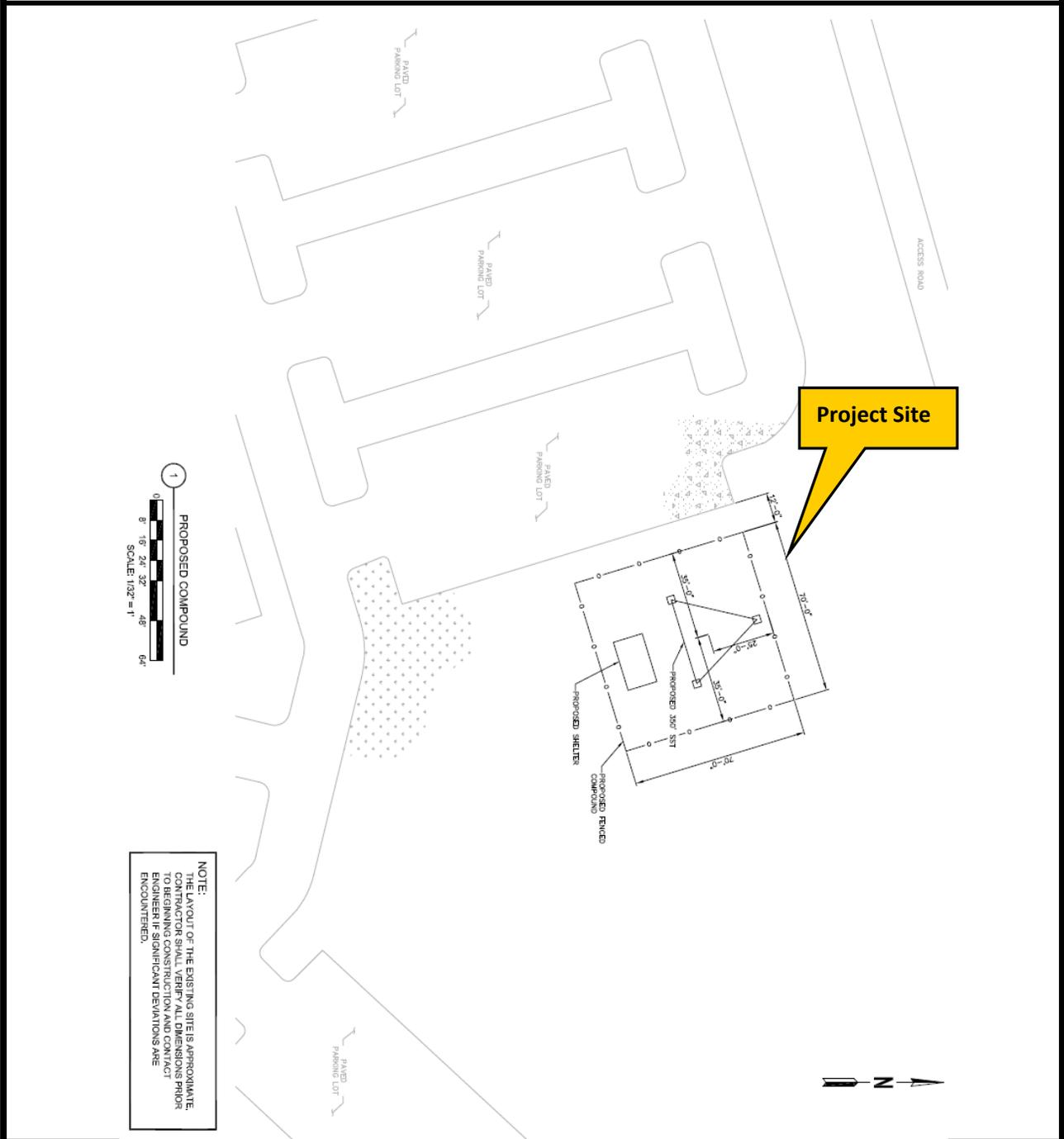
**TOPOGRAPHIC MAP**

**FIGURE 2**  
 Source: USGS 7.5 Minute Topographic Map  
 Galveston, Texas Quadrangle 2010



**Site Name:** Galveston Island Tower  
 502 1/2 59<sup>th</sup> Street  
 Galveston, Texas

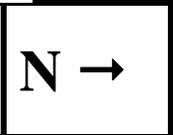
**Project Number:** C312007



NOTE:  
 THE LAYOUT OF THE EXISTING SITE IS APPROXIMATE.  
 THE LAYOUT SHOWN SHOULD BE VERIFIED BY THE ENGINEER PRIOR  
 TO BEGINNING CONSTRUCTION AND CONTACT  
 ENGINEER IF SIGNIFICANT DEVIATIONS ARE  
 ENCOUNTERED.

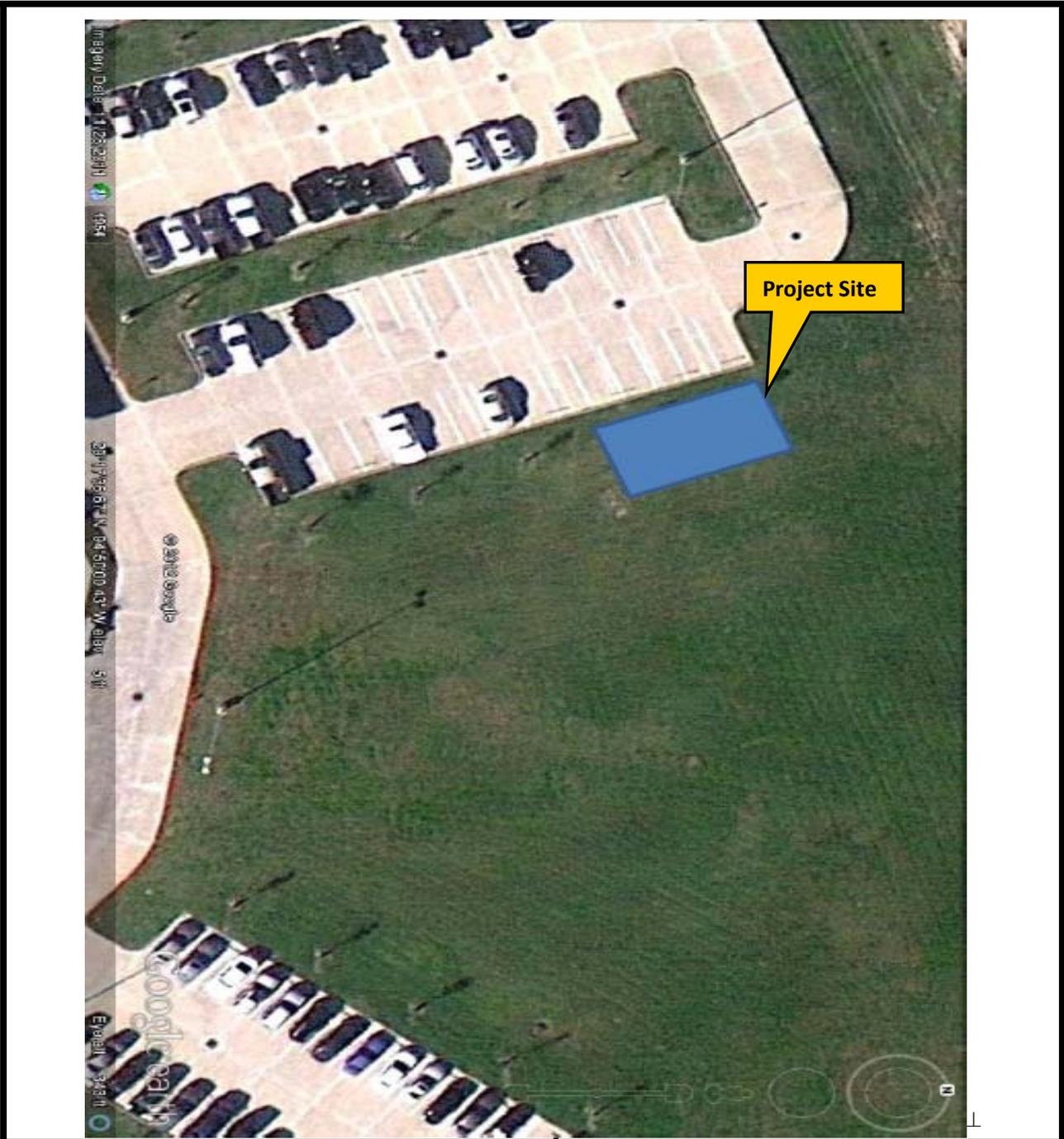
**SITE PLAN**

**FIGURE 3**  
 Source: CTS Telecom  
 (Not to Scale)



**Site Name:** Galveston Island Tower  
 502 1/2 59<sup>th</sup> Street  
 Galveston, Texas

**Project Number:** C312007



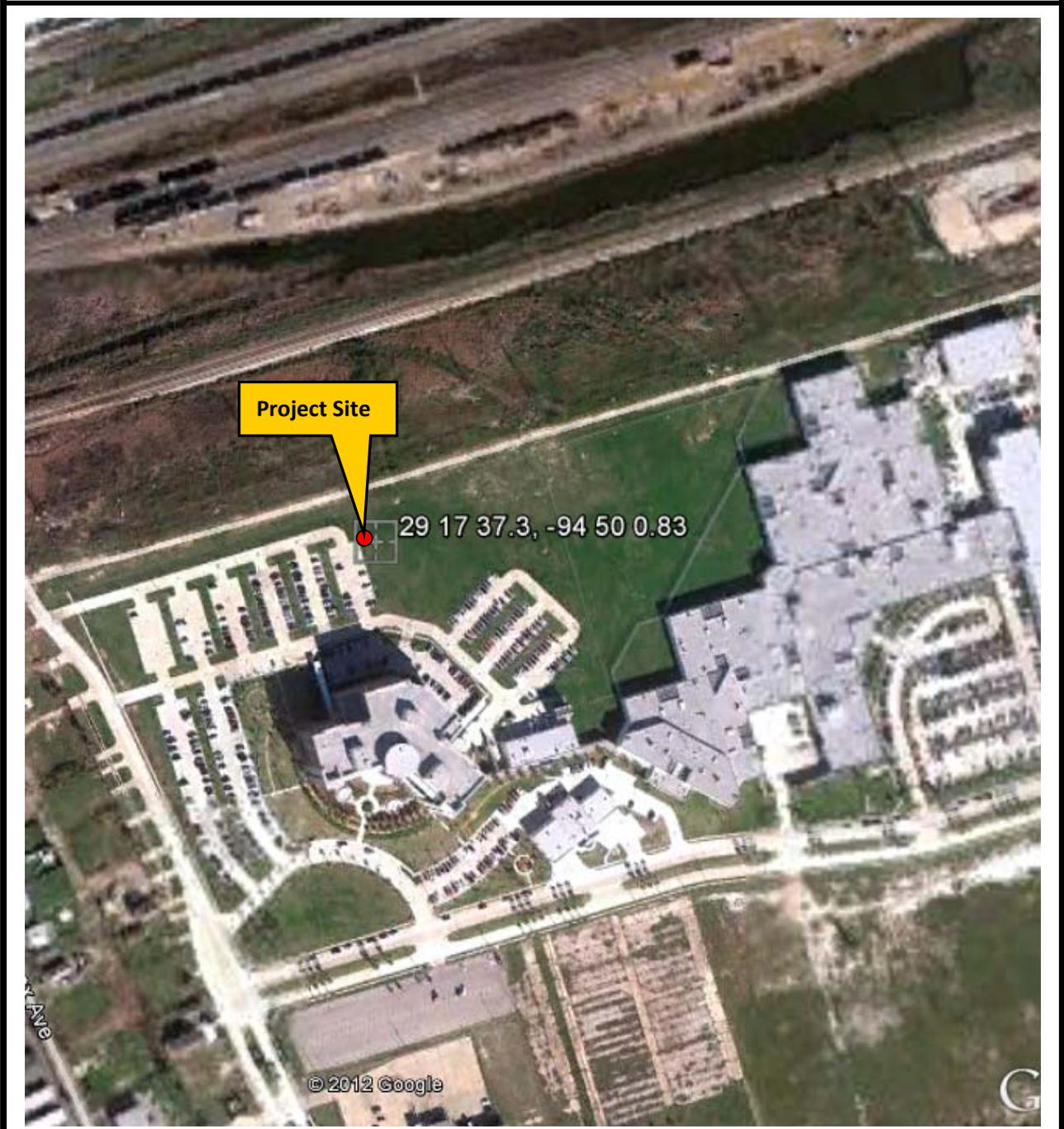
**SITE OVERVIEW**

**FIGURE 4**  
DRAWING NOT TO SCALE



**Site Name:** Galveston Island Tower  
502 ½ 59<sup>th</sup> Street  
Galveston, Texas

**Project Number:** C312007



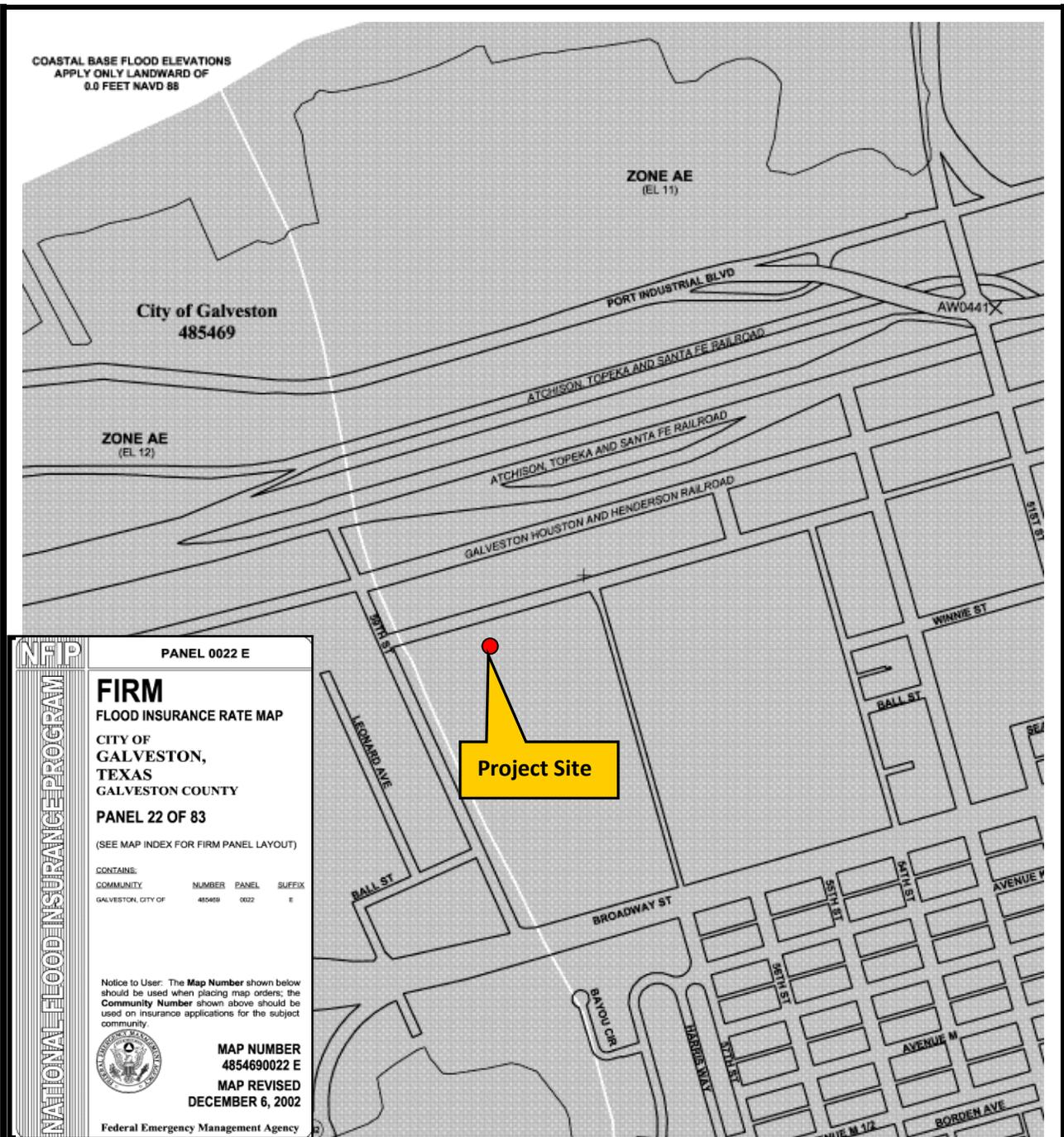
**AERIAL MAP**

**FIGURE 5**  
(Not to Scale)



**Site Name:** Galveston Island Tower  
502 ½ 59<sup>th</sup> Street  
Galveston, Texas

**Project Number:** C312007



**NATIONAL FLOOD INSURANCE PROGRAM**

PANEL 0022 E

**FIRM**  
**FLOOD INSURANCE RATE MAP**  
**CITY OF GALVESTON, TEXAS**  
**GALVESTON COUNTY**  
**PANEL 22 OF 83**  
 (SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:  
 COMMUNITY NUMBER PANEL SUFFIX  
 GALVESTON, CITY OF 485469 0022 E

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.

 **MAP NUMBER 4854690022 E**  
**MAP REVISED DECEMBER 6, 2002**  
 Federal Emergency Management Agency

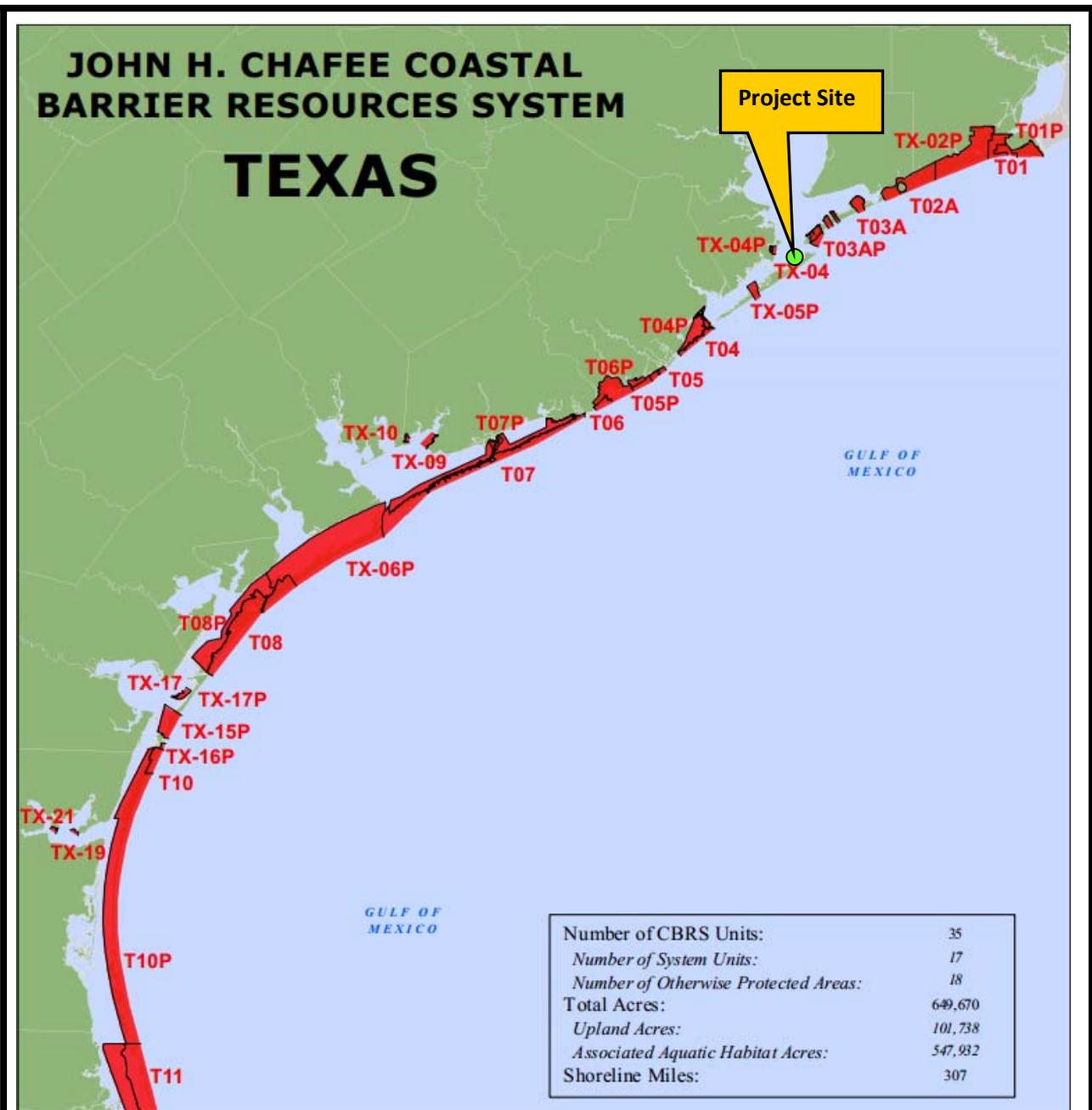
**FEMA MAP**

**FIGURE 6**  
 Source: FEMA Map No. 4854690022E  
 Dated: December 6, 2002



**Site Name:** Galveston Island Tower  
 502 1/2 59<sup>th</sup> Street  
 Galveston, Texas

**Project Number:** C312007



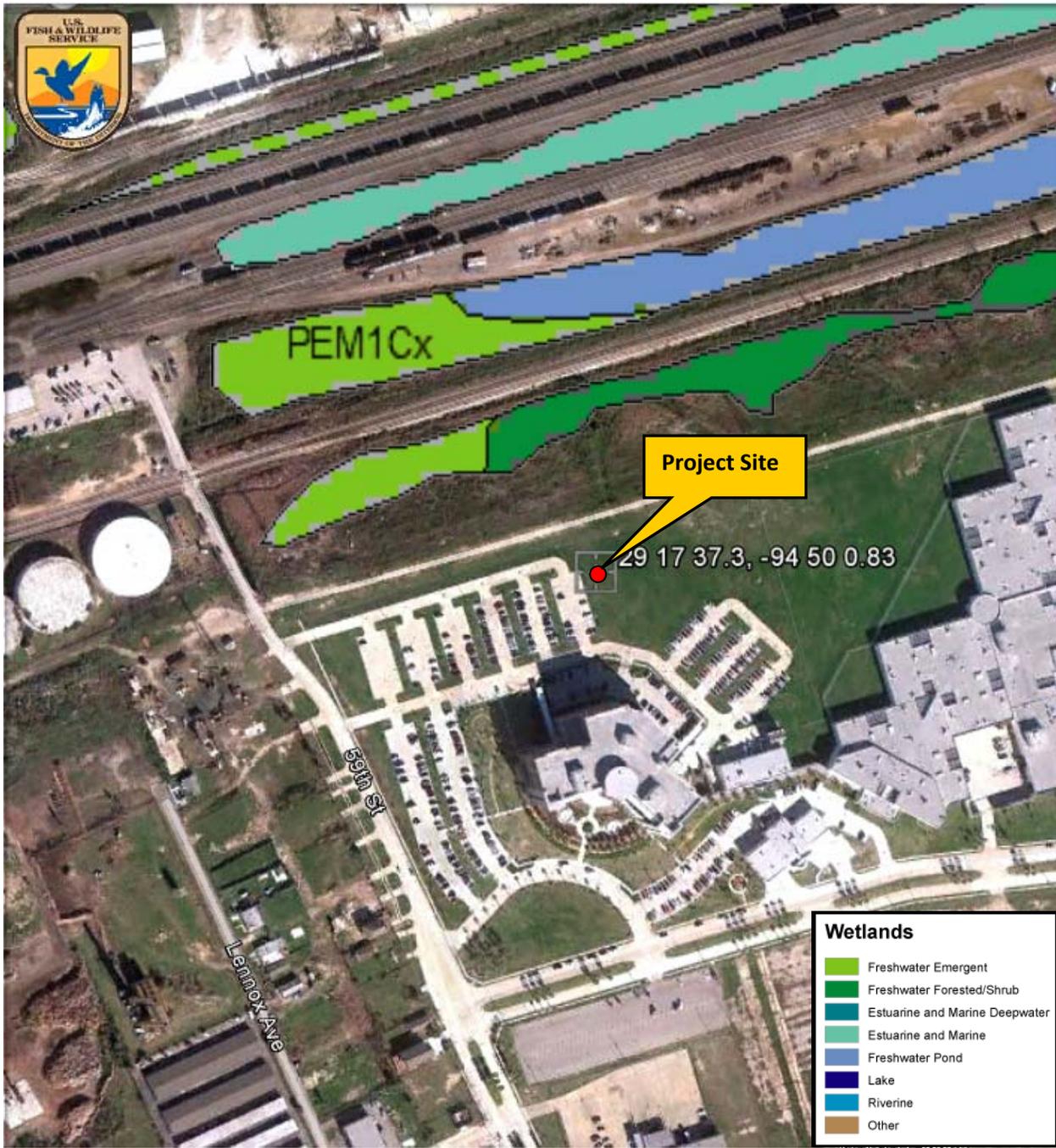
**COASTAL BARRIER SYSTEMS  
LOCATION MAP**

**FIGURE 7**  
(Not to Scale)



**Site Name:** Galveston Island Tower  
502 1/2 59<sup>th</sup> Street  
Galveston, Texas

**Project Number:** C312007



**NATIONAL WETLAND  
INVENTORY MAP**

**FIGURE 8**  
(Not to Scale)



**Site Name:** Galveston Island Tower  
502 1/2 59<sup>th</sup> Street  
Galveston, Texas

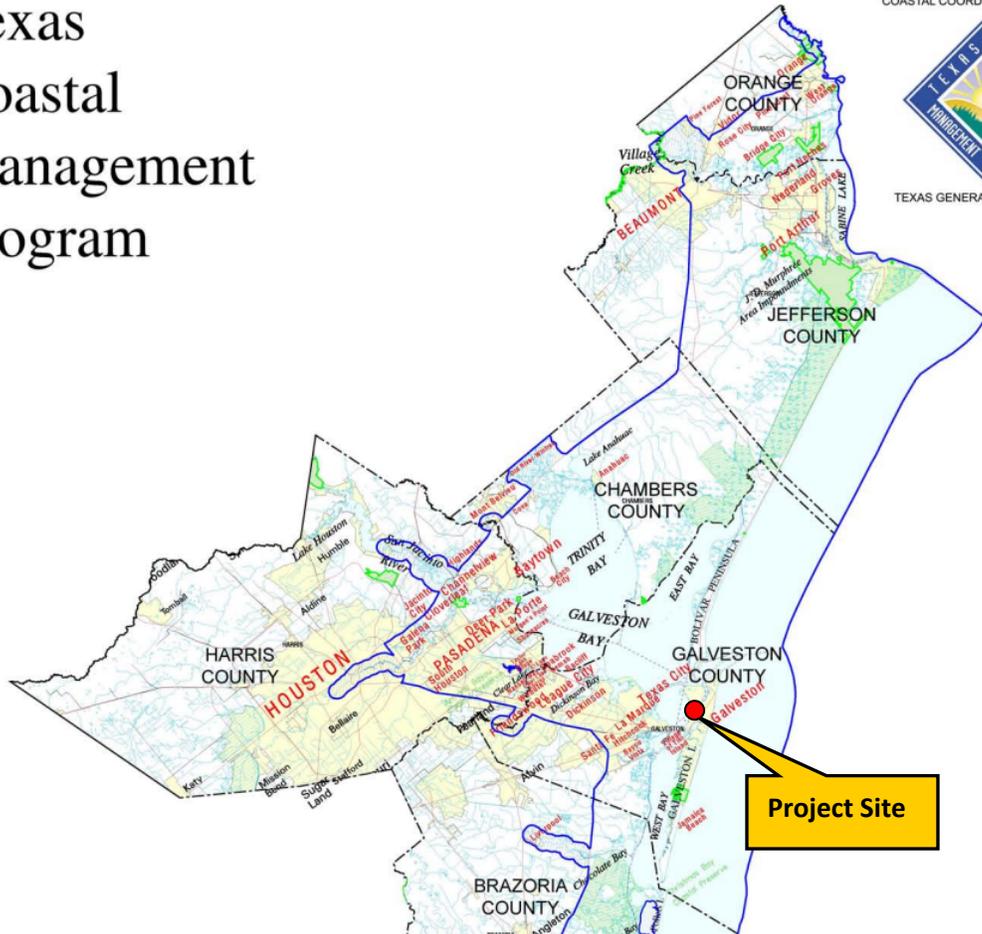
**Project Number:** C312007

# Texas Coastal Management Program

COASTAL COORDINATION COUNCIL



TEXAS GENERAL LAND OFFICE



- |   |   |  |
|---|---|--|
| <p><b>City/Town</b><br/>Red place names indicate municipal areas located completely or partially within the Coastal Zone Boundary</p> <p><b>Coastal Zone Boundary</b><br/>Texas General Land Office</p> <p><b>Municipal Boundary</b><br/>TXDOT 1:100,000</p> <p><b>County Boundary</b><br/>TNRCC 1:24,000</p> <p><b>Federal or State Highway</b><br/>USDOT</p> <p><b>Ship Channel/Gulf Intracoastal Waterway</b><br/>USACE 1:24,000</p> | <p><b>State Park/Wildlife Management Area</b><br/>TPWD, GLO, USGS or TXDOT</p> <p><b>Municipal Area</b><br/>TXDOT</p> <p><b>Coastal Management Program/Wetlands Only</b><br/>Texas General Land Office</p> <p><b>National Wildlife Refuge</b><br/>USFWS</p> <p><b>Coastal Preserve</b><br/>Texas General Land Office</p> <p><b>State Park/Wildlife Management Area</b><br/>TPWD, GLO, USGS or TXDOT</p> <p><b>National Park</b><br/>NPS</p> | <p><b>Water</b><br/>USGS 1:100,000 DLG</p> <p><b>Industrial Water</b><br/>USGS 1:100,000 DLG</p> <p><b>Inundation Area</b><br/>USGS 1:100,000 DLG</p> <p><b>Intermittent Water Body</b><br/>USGS 1:100,000</p> <p><b>Marsh, Wetland, or Swamp</b><br/>USGS 1:100,000</p> <p><b>Flats (Mud, Sand, Gravel, Tidal)</b><br/>USGS 1:100,000</p> |
|---|---|--|

## TEXAS COASTAL MANAGEMENT PROGRAM MAP

FIGURE 9  
(Not to Scale)



**Site Name:** Galveston Island Tower  
502 1/2 59<sup>th</sup> Street  
Galveston, Texas

**Project Number:** C312007

## APPENDIX A – PHOTOGRAPHS



Photo 1: View shows the proposed tower location facing southwest.



Photo 2: View shows the proposed tower location facing south along the existing parking lot.



Photo 3: View shows the proposed tower location facing west.



Photo 4: View shows the proposed tower location facing north.



Photo 5: View shows the proposed tower location facing northeast.



Photo 6: View shows the proposed tower location facing east.

## **APPENDIX B – SECTION 106**

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**SECTION 106 ASSESSMENT**  
**NEW TOWER (NT) SUBMISSION PACKET**  
**FOR**  
**PROPOSED 350-FOOT SELF SUPPORT**  
**TELECOMMUNICATIONS TOWER**

**Galveston Island Tower**  
**502 ½ 59<sup>th</sup> Street**  
**Galveston, Texas 77551**  
**Prudent Project Number: C312007**

**Prepared for:**

C Faulkner Engineering, LP  
4544 S. Lamar, Bldg. G-300  
Austin, Texas 78745

**Prepared by:**



4242 Medical Drive, Suite 5250  
San Antonio, Texas 78229

July 17, 2012

July 17, 2012

Mr. Mark Wolfe  
Texas Historical Commission  
P.O. Box 12276  
Austin, Texas 78711-2276

**Re: Section 106 Assessment - NT  
Galveston Island Tower  
502 ½ 59<sup>th</sup> Street  
Galveston, Texas 77551  
TCNS# 85731  
Prudent Project Number: C312007**

Dear Mr. Wolfe:

Prudent Environmental Services, Inc., (Prudent) is performing a National Environmental Policy Act (NEPA) review on a continuing basis for C Faulkner Engineering, LP (CFE Telecom) for collocation and new tower construction sites. Prudent is submitting for comment to the Texas SHPO, in respect to the Section 106 of the National Historic Preservation Act of 1966 for this FCC-regulated wireless telecommunication facility undertaking. **CFE Telecom is seeking a letter of no effect for a proposed 350-foot self-support telecommunications tower and associated equipment compound to comply with Federal Communications Commission (FCC) requirements as identified in 47CFR Ch. I §1.1307.** Your comments are also being requested pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's regulation for compliance with Section 106, codified at 36 CFR Part 800. Enclosed is the CO Submission Packet – FCC Form 621 and appropriate attachments.

In the meantime, if you have questions about information in this report or if we can be of further assistance, please contact the undersigned at (210) 822-9588.

Respectfully submitted,  
**Prudent Environmental Services, Inc.**



Tomas Hernandez, Jr., P.G.  
Senior Project Manager

Attachments: NT Submission Packet – FCC Form 620 and appropriate attachments

# FCC Wireless Telecommunications Bureau New Tower ("NT") Submission Packet

## NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT OF 1974 AND THE PAPERWORK REDUCTION ACT OF 1995

We have estimated that each response to this collection of information will take on average 5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Washington, DC 20554, Paperwork Reduction Project (3060-1039). We will also accept your comments via the Internet if you send them to [PRA@fcc.gov](mailto:PRA@fcc.gov). *Please do not send completed application forms to this address.*

You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection unless it displays a currently valid OMB control number with this notice. This collection has been assigned OMB control number 3060-1039.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of a statute, FCC regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party to a proceeding before the body or has an interest in the proceeding.

All parties and entities doing business with the Commission must obtain a unique identifying number called the FCC Registration Number (FRN) and supply it when doing business with the Commission. Failure to provide the FRN may delay the processing of the application. This requirement is to facilitate compliance with the Debt Collection Improvement Act of 1996 (DCIA). The FRN can be obtained electronically from the FCC's website at <http://www.fcc.gov> or by manually submitting FCC Form 160. FCC Form 160 is available from the FCC's web site at <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center at (800) 418-FORM (3676), or from the FCC's Fax Information System by dialing (202) 418-0177.

This notice is required by the Privacy Act of 1974, Public Law 93-579, December 31, 1974, 5 U.S.C. Section 552a (e)(3), and the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.



**General Information**

1) (Select only one) ( ) <b>NE – New</b> <b>UA</b> – Update of Application <b>WD</b> – Withdrawal of Application	
2) If this application is for an Update or Withdrawal, enter the file number of the pending application currently on file.	File Number:

**Applicant Information**

3) FCC Registration Number (FRN):
4) Name: <b>CFE Telecom</b>

**Contact Name**

5) First Name: <b>John</b>	6) MI: <b>P</b>	7) Last Name: <b>Menniti</b>	8) Suffix:
9) Title: <b>Project Manager</b>			

**Contact Information**

10) P.O. Box:	<b>And /Or</b>	11) Street Address: <b>907 West 5<sup>th</sup> Street, Suite 250</b>	
12) City: <b>Austin</b>		13) State: <b>TX</b>	14) Zip Code: <b>78703</b>
15) Telephone Number: <b>(512) 674-9484</b>		16) Fax Number: ( )	
17) E-mail Address: <b>jmenniti@ccc411.com</b>			

**Consultant Information**

18) FCC Registration Number (FRN): <b>0021298310</b>
19) Name: <b>Morgan Helfrich</b>

**Principal Investigator**

20) First Name: <b>Herbert</b>	21) MI: <b>G</b>	22) Last Name: <b>Uecker</b>	23) Suffix:
24) Title: <b>Archaeologist</b>			

**Principal Investigator Contact Information**

25) P.O. Box:	<b>And /Or</b>	26) Street Address: <b>30803 Buck Lane</b>	
27) City: <b>Bulverde</b>		28) State: <b>TX</b>	29) Zip Code: <b>78163-2117</b>
30) Telephone Number: <b>(830) 980-7805</b>		31) Fax Number: <b>(830) 438-8666</b>	
32) E-mail Address: <b>starsllc@gvtc.com</b>			

**Professional Qualification**

33) Does the Principal Investigator satisfy the Secretary of the Interior's Professional Qualification Standards?	( <input checked="" type="checkbox"/> ) <u>Y</u> es ( <input type="checkbox"/> ) <u>N</u> o
34) Areas of Professional Qualification: ( <input checked="" type="checkbox"/> ) Archaeologist ( <input type="checkbox"/> ) Architectural Historian ( <input type="checkbox"/> ) Historian ( <input type="checkbox"/> ) Architect ( <input type="checkbox"/> ) Other (Specify) _____	

**Additional Staff**

35) Are there other staff involved who meet the Professional Qualification Standards of the Secretary of the Interior?	( <input type="checkbox"/> ) <u>Y</u> es ( <input checked="" type="checkbox"/> ) <u>N</u> o
--	---

If "Yes", complete the following:

36) First Name:	37) MI:	38) Last Name:	39) Suffix:
40) Title:			
41) Areas of Professional Qualification: ( <input type="checkbox"/> ) Archaeologist ( <input type="checkbox"/> ) Architectural Historian ( <input type="checkbox"/> ) Historian ( <input type="checkbox"/> ) Architect ( <input type="checkbox"/> ) Other (Specify) _____			

**This page may be copied to include additional staff.  
Consultant Information Attachments required – See instructions for details.**

## Site Information

### Tower Construction Notification System

1) TCNS Notification Number: **85731**

### Site Information

2) Site Name: **Galveston Island Tower**

3) Site Address: **502 ½ 59<sup>th</sup> Street**

4) City: **Galveston**

5) State: **TX**

6) Zip Code: **77551**

7) County/Borough/Parish: **Galveston County**

8) Nearest Crossroads: **Between Highway 275 and Interstate 45, west of 51<sup>st</sup> Street**

9) NAD 83 Latitude (DD-MM-SS.S): **N29 17 37.3**

(  ) N or (    ) S

10) NAD 83 Longitude (DD-MM-SS.S): **W94 50 0.8**

(    ) E or (  ) W

### Tower Information

11) Tower height above ground level (include top-mounted attachments such as lightning rods): ( **350** ) Feet (    ) Meters

12) Tower Type (Select One):

(    ) Guyed lattice tower

(  ) Self-supporting lattice

(    ) Monopole

(    ) Other (Describe):

### Project Status

13) Current Project Status (Select One):

(  ) Construction has not yet commenced

(    ) Construction has commenced, but is not completed

Construction commenced on: \_\_\_\_/\_\_\_\_/\_\_\_\_

(    ) Construction has been completed

Construction commenced on: \_\_\_\_/\_\_\_\_/\_\_\_\_

Construction completed on: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Site Information Attachments required – See instructions for details.**

**Determination of Effect**

14) Direct Effects (Select One):

- No Historic Properties in Area of Potential Effects (APE)
- No Effect on Historic Properties in APE
- No Adverse Effect on Historic Properties in APE
- Adverse Effect on one or more Historic Properties in APE

15) Visual Effects (Select One):

- No Historic Properties in Area of Potential Effects (APE)
- No Effect on Historic Properties in APE
- No Adverse Effect on Historic Properties in APE
- Adverse Effect on one or more Historic Properties in APE

**Determination of Effect Attachments required – See instructions for details.**

### Tribal/NHO Involvement

1) Have Indian Tribes or Native Hawaiian Organizations (NHOs) been identified that may attach religious and cultural significance to historic properties which may be affected by the undertaking within the APEs for direct and visual effects?	( <input checked="" type="checkbox"/> ) Yes ( <input type="checkbox"/> ) No
2a) Tribes/NHOs contacted through TCNS Notification Number: <u>85731</u> Number of Tribes/NHOs: <u>6</u>	
2b) Tribes/NHOs contacted through an alternate system: <u>NA</u> Number of Tribes/NHOs: _____	

**Tribe/NHO Contacted Through TCNS**

3) Tribe/NHO FRN:
4) Tribe/NHO Name:

**Contact Name**

5) First Name:	6) MI:	7) Last Name:	8) Suffix:
9) Title:			

**Dates & Response**

10) Date Contacted	11) Date Replied
( <input type="checkbox"/> ) No Reply	
( <input type="checkbox"/> ) Replied/No Interest	
( <input type="checkbox"/> ) Replied/Have Interest	
( <input type="checkbox"/> ) Replied/Other _____	

**This page may be copied to include additional Tribes/NHOs contacted.  
Tribal/NHO Involvement Attachments may be required – See instructions for details.**

### Other Tribes/NHOs Contacted

#### Tribe/NHO Information

1) FCC Registration Number (FRN):
2) Name: <b>Comanche Nation</b>

#### Contact Name

3) First Name: <b>Kelly</b>	4) MI:	5) Last Name: <b>Glace</b>	6) Suffix:
7) Title: <b>THPO Assistant</b>			

#### Contact Information

8) P.O. Box:	And /Or	9) Street Address: <b>#6 SW 'D' Avenue, Suite A</b>	
10) City: <b>Lawton</b>	11) State: <b>OK</b>	12) Zip Code: <b>73502</b>	
13) Telephone Number: <b>(580) 595-9960</b>		14) Fax Number: ( )	
15) E-mail Address:			
16) Preferred means of communication:			
( ) E-mail			
( <b>X</b> ) Letter			
( ) Both			

#### Dates & Response

17) Date Contacted <b><u>5/16/2012</u></b>	18) Date Replied <b><u>5/25/2012</u></b>
( ) No Reply	
( ) Replied/No Interest	
( <b>X</b> ) Replied/Have Interest	
( ) Replied/Other _____	

This page may be copied to include additional Tribes/NHOs.

## Other Tribes/NHOs Contacted

### Tribe/NHO Information

1) FCC Registration Number (FRN):
2) Name: <b>Wichita and Affiliated Tribes</b>

### Contact Name

3) First Name: <b>Jason</b>	4) MI:	5) Last Name: <b>Prince</b>	6) Suffix:
7) Title: <b>TCNS Representative and GAP Technician</b>			

### Contact Information

8) P.O. Box:	<b>And /Or</b>	9) Street Address:
10) City:	11) State:	12) Zip Code:
13) Telephone Number:	14) Fax Number: (    )	
15) E-mail Address:		
16) Preferred means of communication:		
(    ) E-mail		
(    ) Letter		
(    ) Both		

### Dates & Response

17) Date Contacted <b><u>5/16/2012</u></b>	18) Date Replied <b><u>5/25/2012</u></b>
( <b>X</b> ) No Reply	
(    ) Replied/No Interest	
(    ) Replied/Have Interest	
(    ) Replied/Other _____	

**This page may be copied to include additional Tribes/NHOs.**

### Other Tribes/NHOs Contacted

#### Tribe/NHO Information

1) FCC Registration Number (FRN):
2) Name: <b>Tonkawa Tribe</b>

#### Contact Name

3) First Name: <b>Joshua</b>	4) MI:	5) Last Name: <b>Waffle</b>	6) Suffix:
7) Title: <b>Tribal Administrator</b>			

#### Contact Information

8) P.O. Box:	And /Or	9) Street Address:	
10) City:		11) State:	12) Zip Code:
13) Telephone Number: <b>(580) 628-2561 ex. 124</b>		14) Fax Number: ( )	
15) E-mail Address: <b>jwaffle@tonkawatribe.com</b>			
16) Preferred means of communication: <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Letter <input type="checkbox"/> Both			

#### Dates & Response

17) Date Contacted <b><u>5/16/2012</u></b>	18) Date Replied <b><u>5/29/2012</u></b>
<input type="checkbox"/> No Reply	
<input checked="" type="checkbox"/> Replied/No Interest	
<input type="checkbox"/> Replied/Have Interest	
<input type="checkbox"/> Replied/Other _____	

This page may be copied to include additional Tribes/NHOs.

## Other Tribes/NHOs Contacted

### Tribe/NHO Information

1) FCC Registration Number (FRN):
2) Name: <b>Alabama-Coushatta Tribe of Texas</b>

### Contact Name

3) First Name: <b>Bryant</b>	4) MI: <b>J</b>	5) Last Name: <b>Celestine</b>	6) Suffix:
7) Title: <b>Historic Preservation Officer</b>			

### Contact Information

8) P.O. Box:	<b>And /Or</b>	9) Street Address:
10) City: <b>Livingston</b>	11) State: <b>TX</b>	12) Zip Code:
13) Telephone Number:	14) Fax Number: (    )	
15) E-mail Address: <b>Celestine.bryant@actribe.org</b>		
16) Preferred means of communication:  ( <input checked="" type="checkbox"/> ) E-mail (    ) Letter (    ) Both		

### Dates & Response

17) Date Contacted <b><u>5/16/2012</u></b>	18) Date Replied <b><u>5/25/2012</u></b>
(    ) No Reply	
(    ) Replied/No Interest	
( <input checked="" type="checkbox"/> ) Replied/Have Interest	
(    ) Replied/Other _____	

**This page may be copied to include additional Tribes/NHOs.**

## Other Tribes/NHOs Contacted

### Tribe/NHO Information

1) FCC Registration Number (FRN):
2) Name: <b>Coushatta Indian Tribe</b>

### Contact Name

3) First Name: <b>Linda</b>	4) MI: <b>P</b>	5) Last Name: <b>Langley</b>	6) Suffix:
7) Title: <b>THPO</b>			

### Contact Information

8) P.O. Box:	<b>And /Or</b>	9) Street Address:
10) City:	11) State:	12) Zip Code:
13) Telephone Number:	14) Fax Number: (    )	
15) E-mail Address:		
16) Preferred means of communication:		
(    ) E-mail		
(    ) Letter		
( <b>X</b> ) Both		

### Dates & Response

17) Date Contacted <b><u>5/16/2012</u></b>	18) Date Replied <b><u>6/5/2012</u></b>
(    ) No Reply	
(    ) Replied/No Interest	
( <b>X</b> ) Replied/Have Interest	
(    ) Replied/Other _____	

**This page may be copied to include additional Tribes/NHOs.**

## Other Tribes/NHOs Contacted

### Tribe/NHO Information

1) FCC Registration Number (FRN):
2) Name: <b>Mescalero Apache Tribe</b>

### Contact Name

3) First Name: <b>Holly</b>	4) MI: <b>B</b>	5) Last Name: <b>Houghten</b>	6) Suffix:
7) Title: <b>THPO</b>			

### Contact Information

8) P.O. Box: <b>227</b>	And /Or	9) Street Address:	
10) City: <b>Mescalero</b>	11) State: <b>NM</b>	12) Zip Code: <b>88340</b>	
13) Telephone Number: <b>(580) 595-9960</b>	14) Fax Number: ( )		
15) E-mail Address:			
16) Preferred means of communication:			
( <input checked="" type="checkbox"/> ) E-mail			
( <input type="checkbox"/> ) Letter			
( <input type="checkbox"/> ) Both			

### Dates & Response

17) Date Contacted <b><u>5/16/2012</u></b>	18) Date Replied <b><u>5/25/2012</u></b>
( <input type="checkbox"/> ) No Reply	
( <input type="checkbox"/> ) Replied/No Interest	
( <input checked="" type="checkbox"/> ) Replied/Have Interest	
( <input type="checkbox"/> ) Replied/Other _____	

This page may be copied to include additional Tribes/NHOs.

## Historic Properties

### Properties Identified

1) Have any historic properties been identified within the APEs for direct and visual effect?	( ) <u>Y</u> es ( <b>X</b> ) <u>N</u> o
2) Has the identification process located archaeological materials that would be directly affected, or sites that are of cultural or religious significance to Tribes/NHOs?	( ) <u>Y</u> es ( <b>X</b> ) <u>N</u> o
3) Are there more than 10 historic properties within the APEs for direct and visual effect? If "Yes", you are required to attach a Cultural Resources Report in lieu of adding the Historic Property below.	( ) <u>Y</u> es ( <b>X</b> ) <u>N</u> o

### Historic Property

4) Property Name:
5) SHPO Site Number:

### Property Address

6) Street Address:		
7) City:	8) State:	9) Zip Code:
10) County/Borough/Parish:		

### Status & Eligibility

11) Is this property listed on the National Register?  Source: _____	( ) <u>Y</u> es ( ) <u>N</u> o
12) Is this property eligible for listing on the National Register?  Source: _____	( ) <u>Y</u> es ( ) <u>N</u> o
13) Is this property a National Historic Landmark?	( ) <u>Y</u> es ( ) <u>N</u> o

14) Direct Effects (Select One):  <input type="checkbox"/> No Effect on this Historic Property in APE <input type="checkbox"/> No Adverse Effect on this Historic Property in APE <input type="checkbox"/> Adverse Effect on this Historic Property in APE
15) Visual Effects (Select One):  <input type="checkbox"/> No Effect on this Historic Property in APE <input type="checkbox"/> No Adverse Effect on this Historic Property in APE <input type="checkbox"/> Adverse Effect on this Historic Property in APE

**This page may be copied to include additional Historic Properties.  
Historic Property Attachments required – See instructions for details.**

## Local Government Involvement

### Local Government Agency

1) FCC Registration Number (FRN):
2) Name:

### Contact Name

3) First Name:	4) MI:	5) Last Name:	6) Suffix:
7) Title:			

### Contact Information

8) P.O. Box:	<b>And /Or</b>	9) Street Address:		
10) City:		11) State:	12) Zip Code:	
13) Telephone Number: (    )		14) Fax Number: (    )		
15) E-mail Address:				
16) Preferred means of communication:				
(    ) E-mail				
(    ) Letter				
(    ) Both				

### Dates & Response

17) Date Contacted ____/____/____	18) Date Replied ____/____/____
(    ) No Reply	
(    ) Replied/No Interest	
(    ) Replied/Have Interest	
(    ) Replied/Other _____	

### Additional Information

19) Information on local government's role or interest (optional):
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This page may be copied to include additional local government agencies.  
Local Government Attachments required – See instructions for details.

## Other Consulting Parties

### Other Consulting Parties Contacted

1) Has any other agency been contacted and invited to become a consulting party?	(    ) <u>Y</u> es ( <b>X</b> ) <u>N</u> o
--	--

### Consulting Party

2) FCC Registration Number (FRN):
3) Name:

### Contact Name

4) First Name:	5) MI:	6) Last Name:	7) Suffix:
8) Title:			

### Contact Information

9) P.O. Box:	<b>And /Or</b>	10) Street Address:		
11) City:		12) State:	13) Zip Code:	
14) Telephone Number: (    )		15) Fax Number: (    )		
16) E-mail Address:				
17) Preferred means of communication:  (    ) E-mail (    ) Letter (    ) Both				

### Dates & Response

18) Date Contacted \_\_\_\_/\_\_\_\_/\_\_\_\_

19) Date Replied \_\_\_\_/\_\_\_\_/\_\_\_\_

No Reply

Replied/No Interest

Replied/Have Interest

Replied/Other \_\_\_\_\_

**Additional Information**

20) Information on other consulting parties' role or interest (optional):

**This page may be copied to include additional consulting parties.  
Consulting Parties Attachments required – See instructions for details.**

## Designation of SHPO/THPO

1) Designate the Lead State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) based on the location of the tower.

### SHPO/THPO

Name: Texas SHPO

2) You may also designate up to three additional SHPOs/THPOs if the APEs include multiple states. If the APEs include other countries, enter the name of the National Historic Preservation Agency and any state and provincial Historic Preservation Agency.

SHPO/THPO Name: NA

SHPO/THPO Name: NA

SHPO/THPO Name: NA

**Designation of SHPO/THPO Attachments may be required – See instructions for details.**

### Certification

I certify that all representations on this FCC Form 620 Submission Packet and the accompanying attachments are true, correct, and complete.

#### Party Authorized to Sign

First Name: **Tomas**

MI:

Last Name: **Hernandez**

Suffix:

Signature:

Date: \_\_\_/\_\_\_/\_\_\_

**FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.**

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).**

**ATTACHMENT 1**  
**RESUMES**

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**TOMAS HERNANDEZ, JR., P.G.**  
Senior Project Manager

**EDUCATION**

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- Graduate Geology Courses, University of Texas at San Antonio, 1999-2002
- B.S., Geology, University of Texas at San Antonio, 1999

**PROFESSIONAL REGISTRATION**

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- Professional Geoscientist (TX #3297, 2003)
- LPST Project Manager (TX #161, 2004)

**PROFESSIONAL SUMMARY**

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Mr. Hernandez has over ten years of experience in environmental consulting. Responsibilities have included project management, marketing, reporting, and field support. Mr. Hernandez is experienced in providing project management for projects involving subsurface, surface, and groundwater investigations, wetlands determinations, biological assessments, threatened/endangered species and critical habitat reviews, environmental assessments, and NEPA audits. As a project manager, he develops program plans, prepares cost estimates and negotiates delivery orders with the client, manages and oversees subcontractors, performs contract administration and reporting tasks, and serves as the client liaison with federal and state regulatory agencies. His duties also include business development, report preparation, and performance of field investigations.

**SELECTED PROFESSIONAL EXPERIENCE**

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- **Environmental Assessment / Black & Veatch Corporation and San Antonio Water Systems / Texas.** Responsible for the project management of the environmental assessment and coordination of the wetlands review for a proposed 110 mile water pipeline, for the Gonzales County Carrizo Aquifer Program, recovery and storage aquifer project. The environmental assessment involved investigating potential environmental concerns related to recognized environmental conditions, critical habitat evaluations, and identifications for federal and state threatened and endangered species. Services were performed for the San Antonio Water Systems.
- **Environmental Site Assessments / Medicine Bow Ranch/ Wyoming.** Responsible for the project management of the environmental assessment of a 65,000-acre proposed wind farm development in Medicine Bow, Wyoming.
- **Environmental Assessment / Community Development Corporation of Brownsville / Texas.** Responsible for the project management and environmental assessment of impacts of HUD Colonias Initiative (HCI) Program developments in the Brownsville and McAllen, Texas sites.
- **Phase I Environmental Site Assessments / USA and Mexico.** Responsible for the project management and assessment of over 1,000 Phase I ESAs and transaction screens for various financial institutions and private companies.

- **Geotechnical and Environmental Project Management / Various Telecommunication Projects / USA.** Project Manager responsible for soliciting and managing telecommunication construction projects across 18 states. Coordinated field work and report writing for geotechnical and environmental assessments for over 1,500 sites, including managing Section 106 reviews, archaeological assessments, and notifications to FCC's Tower Construction Notification System for telecommunication projects.
- **Site Investigations / City of San Antonio / San Antonio, Texas.** Responsible for development of the investigation plan to assess metals and hydrocarbon contamination of soil and groundwater the Brickyard Project. Services were performed for the City of San Antonio.
- **Site Investigations / Furniture Solutions / Ciudad Juarez, Mexico.** Responsible for project management and development of the investigation plan to assess volatile and semi-volatile compounds for an old industrial facility.
- **Geologic Assessments / Southerland Communities/ Texas.** Responsible for the project management and assessment of geologic features located on the Edwards Aquifer Recharge Zone for a proposed 850-acre residential development.

#### **TRAINING AND CERTIFICATIONS**

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- OSHA 40-Hour HAZWOPER and annual 8-Hour refreshers
- OSHA 8-Hour Management & Supervisor Training
- First Aid / CPR
- Training Theory & Practical Applications of Grounding and Bonding with Special Emphasis on Ground System and Soil Resistivity Testing, CA – Lyncole XIT Grounding, 2001

**ATTACHMENT 2**

**ADDITIONAL SITE INFORMATION**

**Additional Site Information**

The Site is located at 502 ½ 59<sup>th</sup> Street, Galveston, Texas and is the location for a proposed 350-foot self-support telecommunications tower and equipment compound. The Site is located in a previously disturbed area of Galveston County, Texas. The property is inside of the city limits of Galveston, Texas. According to the information provided by CFE Telecom, the Site is located at N29° 17' 37.33" Latitude and W94° 50' 0.83" Longitude (NAD83).

**ATTACHMENT 3**

**TRIBAL AND NHO INVOLVEMENT**

Prudent used the FCC's Tower Construction Notification System (TCNS) Notification I.D. 85731 on May 16, 2012 to contact federally registered tribes to determine whether the proposed tower would have visual or direct effects on tribal religious or cultural property within the Area of Potential Effect (APE). A copy of the FCC's TCNS Notification is attached.

**Additional Correspondence**

A response was not received by the date of this submittal from the tribes notified by the TCNS. If a response is not received within 30 days of the TCNS, a second letter submittal will be sent to each of the tribal contacts on the 'geographic preference list' provided by the FCC. Prudent will requested government-to-government consultation between the FCC and tribal groups that had not responded.

**ATTACHMENT 4**  
**LOCAL GOVERNMENT**

The local government offices have been contacted by CFE Telecom regarding the proposed tower construction.

**ATTACHMENT 5**  
**PUBLIC INVOLVEMENT**

A legal notice was published in a local newspaper, on June 6, 2012 in the *Galveston County Daily News* in Galveston, Texas.

Public Notice - This notice serves to comply with Nationwide Programmatic Agreement for Review of Effects on Historic Properties - Section 106 Notice that CFE Telecom proposes plans for the following telecommunications site in Galveston County, Texas: 350-foot self-support tower at 502 1/2 59th Street, Galveston, Texas. Please submit public comments to [mhelfrich@prudentweb.com](mailto:mhelfrich@prudentweb.com)

Published: June 4, 2012  
00301448

**ADDITIONAL CONSULTING PARTIES**

No other parties were consulted.

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**ATTACHMENT 6**

**AREAS OF POTENTIAL EFFECTS**

**A. Direct Effects**

The Area of Potential Effect (APE) for Direct Effects was determined to be the footprint of the proposed 350-foot self-support telecommunications tower and associated equipment compound. No listed state-surveyed historic resources or historic standing structures are located within or adjacent to the Site. One eligible National Register of Historic Places (NRHP) property was located within the APE. The Texas Heroes Neighborhood is located 0.66 miles southeast of the Site. The Texas Heroes Neighborhood is not identified in the Texas Historic Sites Atlas, but was previously determined eligible during the Hurricane Ike recovery process. Due to the industrial and commercial nature of the area, and the fact that the proposed construction will take place on a previously disturbed site, Prudent believes that the proposed action will not have any direct effects on the eligible NRHP. Therefore, no significant direct effects were identified.

Our Atlas search indicated that no prior archeological investigations or resources prerecorded for the Site. According to the archaeological review there were no NRHP-listed sites within or adjacent to the Site; however, the Site has the potential for the existence of undiscovered/unrecorded archeological resources in or near the Site.

Any archeological resources that might be in or near the Site have probably been disturbed or destroyed by previous activities (construction and staging of the existing parking lot and field) and have negligible or negative research potential. Therefore, the proposed tower project would have no significant direct effect on any archaeological or cultural resources and Prudent recommends no further archaeological study at the Site.

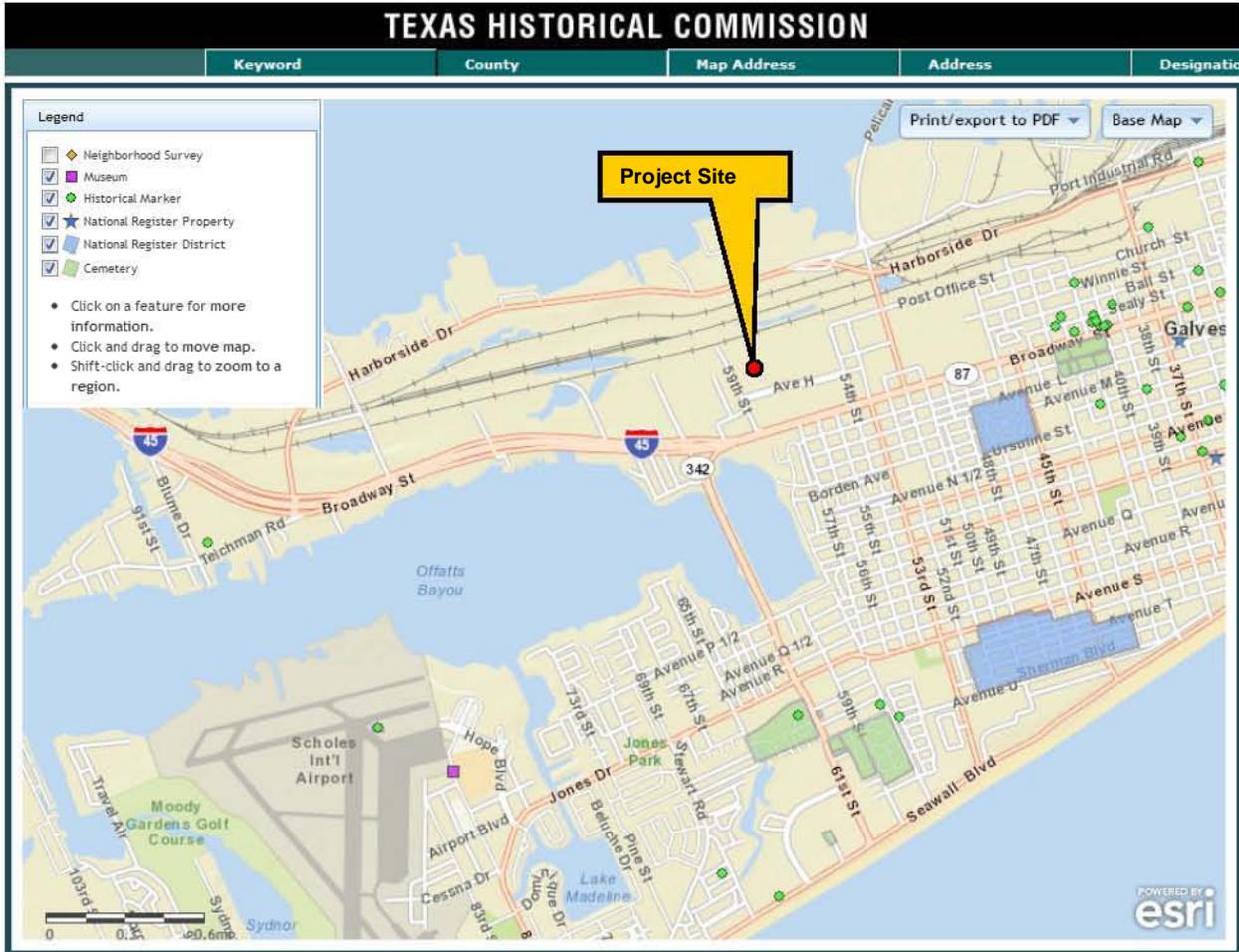
**B. Visual Effects**

The APE for visual effects for this project is a 0.75-mile radius from the proposed 350-foot self-support telecommunications tower (see attached USGS 7.5 Minute Series Topographic map, Figure 1).

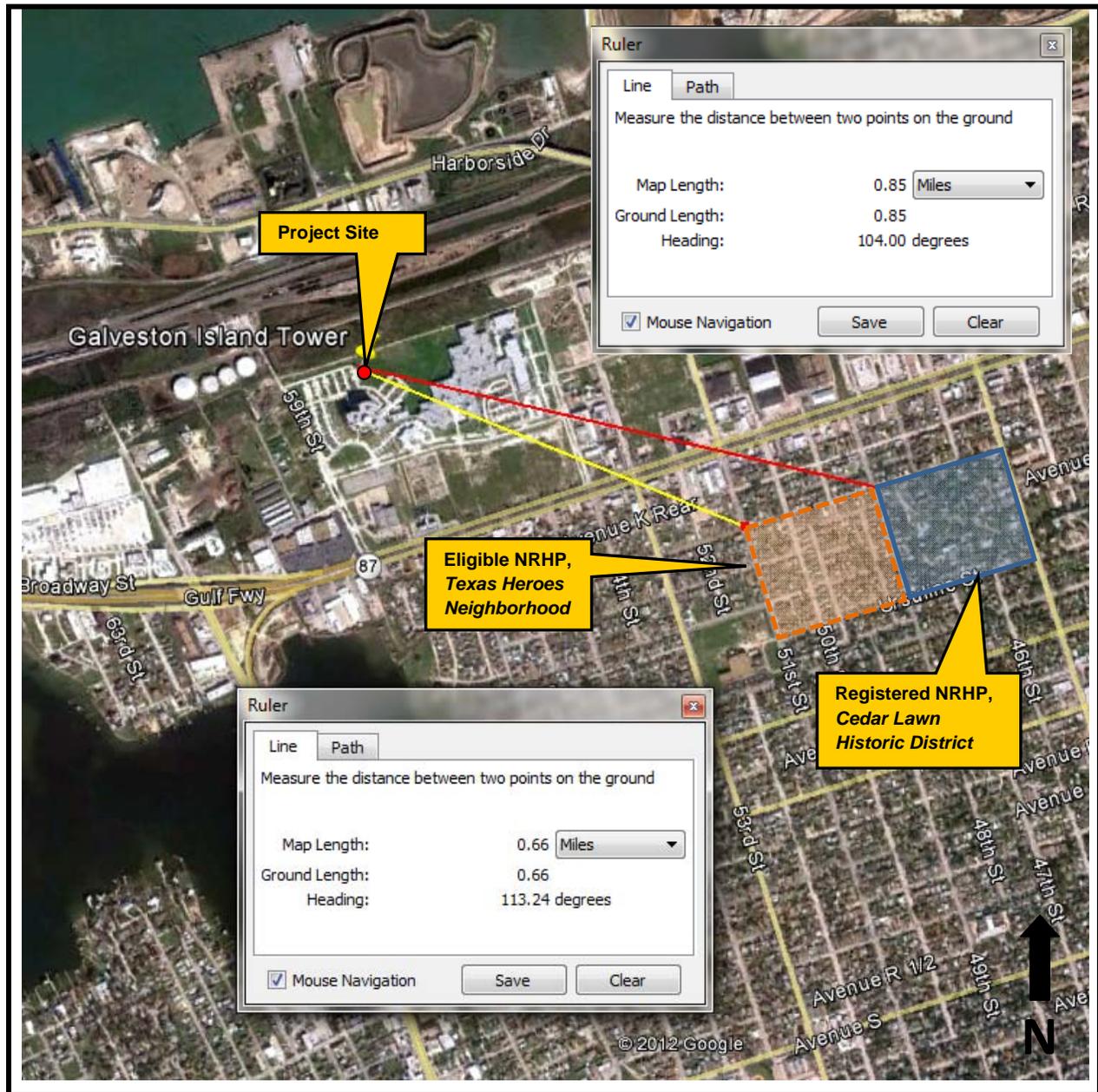
Prudent conducted a records review at the Texas Historical Commission, Texas Historic Sites Atlas Web Site, <http://atlas.thc.state.tx.us/>, to identify any resources listed in the National Register of Historic Places (NRHP), eligible properties, state-surveyed historic resources, within the APE for visual effects of the proposed project. No listed state-surveyed historic resources were noted within the APE for visual effects of the proposed project. One eligible NRHP property was located within the APE. The Texas Heroes Neighborhood is located 0.66 miles southeast of the Site. The Texas Heroes Neighborhood is not identified in the Texas Historic Sites Atlas, but was previously determined eligible during the Hurricane Ike recovery process according to Ms. Linda Henderson of the Texas Historical Commission. Due to the industrial and commercial visual obstructions between the Site and the eligible NRHP, Prudent believes that the proposed telecommunications tower will not have any significant visual effects on the eligible NRHP. Therefore, no significant visual effects were identified.

**HISTORIC PROPERTIES IDENTIFIED IN THE APE FOR VISUAL EFFECTS**

Based on a review of the Texas Historical Commission, Texas Historic Sites Atlas Web Site, <http://atlas.thc.state.tx.us/> no listed NRHP eligible properties were noted within the APE for visual effects of the proposed project.



Based on an APE radius review of the Site, one eligible NRHP property was located within the APE. The Texas Heroes Neighborhood is located 0.66 miles southeast of the Site. The Texas Heroes Neighborhood is not identified in the Texas Historic Sites Atlas, but was previously determined eligible during the Hurricane Ike recovery process. Also, the Cedar Lawn Historic District is located just outside of the APE at 0.85 miles southeast of the Site.



### **HISTORIC PROPERTIES IDENTIFIED IN THE APE FOR DIRECT EFFECTS**

No state-surveyed historic resources or historic standing structures are located adjacent to or within the Site. One eligible NRHP property was located within the APE. The Texas Heroes Neighborhood is located 0.66 miles southeast of the Site. The Texas Heroes Neighborhood is not identified in the Texas Historic Sites Atlas, but was previously determined eligible during the Hurricane Ike recovery process. Due to the industrial and commercial nature of the area, and the fact that the proposed construction will take place on a previously disturbed site, Prudent believes that the proposed action will not have any direct effects on the eligible NRHP.

Our Atlas search indicated that no prior archeological investigations or resources prerecorded for the Site. An archaeological review was conducted to identify any listed archaeological resources within or adjacent to the Site. According to the archaeological review, the project location is in an area with low probability for the existence of undiscovered/unrecorded prehistoric archaeological resources. Any archeological resources that might be in or near the Site have probably been disturbed or destroyed by previous activities (construction and staging of the existing parking lot and field) and have negligible or negative research potential. Therefore, Prudent requests the SHPO make a determination on whether or not an archaeological survey will be warranted due to the existing construction activities at the Site.

### **VISUAL EFFECTS ON IDENTIFIED PROPERTIES**

One eligible NRHP property was located within the APE. The Texas Heroes Neighborhood is located 0.66 miles southeast of the Site. The Texas Heroes Neighborhood is not identified in the Texas Historic Sites Atlas, but was previously determined eligible during the Hurricane Ike recovery process. Due to the industrial and commercial visual obstructions between the Site and the eligible NRHP, Prudent believes that the proposed construction will not have any visual effects on the eligible NRHP.

An archaeological review was conducted to identify any listed archaeological resources within the APE. The review indicated that there are no NRHP-listed archaeological sites within the project APE. Prudent requests the SHPO make a determination on whether or not an archaeological survey will be warranted due to the existing construction activities at the Site.

**ATTACHMENT 7**  
**ARCHEOLOGICAL REPORT**



South Texas Archeological Research Services, LLC  
Cultural Resource Managers & Archeological Contractors  
FRIENDLY PROFESSIONAL SERVICE

June 15, 2012

Ms. Morgan M. Helfrich  
Staff Scientist  
Prudent Environmental Services, Inc.  
4242 Medical Drive, Suite 7250  
San Antonio, Texas 78229

Re: Desktop Archeological Review: Galveston Island Cell Tower Project Area, Galveston, Texas

Dear Ms. Helfrich:

Per your request, we conducted a review for the above-referenced cell tower site (CTS) according to the Federal Communications Commission's Nationwide Programmatic Agreement (PA; 47 CFR Part 1). **In our opinion, no further archeological work should be necessary in order to satisfy applicable provisions of Section 106 of the National Historic Preservation Act for the CTS.** Our review concerned only archeological resources within or adjacent to the CTS and was based only on the items you provided and our research and opinions as described herein. We performed: (1) an internet search in the *Texas Archeological Sites Atlas* (Atlas) of the Texas State Historic Preservation Officer (SHPO) for evidence of previously recorded archeological resources; and (2) a preliminary estimate of the general probability for the presence of undiscovered/unrecorded archeological resources. We did not visit the CTS, and other, non-archeological categories of protected cultural resources might exist in or near the CTS or any area of potential visual effects (APVE) described in the PA.

Our Atlas search indicated that no prior archeological investigations or resources were recorded for the CTS. Considering that the CTS is in a developed area on or immediately adjacent to the landscaped grounds and paved parking lot of a county court building, we believe there is a low probability for the existence of undiscovered or unrecorded archeological resources in or near the CTS.

We do not warrant the accuracy of Atlas data or the presence, absence, or condition of archeological or other cultural resources of the CTS or APVE and do not purport to give legal advice. This review is not intended as a substitute for review by the SHPO and the SHPO's opinions might differ from ours concerning the archeological potential or requirements for the CTS. If you have any questions, or if we may be of any further assistance, please contact me anytime. Thank you for the opportunity to be of service to Prudent Environmental Services, Inc.

Sincerely,

A handwritten signature in black ink, appearing to read "Herbert G. Uecker".

Herbert G. Uecker  
Principal Investigator and Cultural Resources Director

National Historic Preservation Act Section 106 and Antiquities Code of Texas Compliance  
30803 Buck Lane, Bulverde, Texas 78163-2117  
Phone: 830/980-7805 Fax: 830/438-8666  
Email: starsllc@gvtc.com

**ATTACHMENT 8**  
**PHOTOGRAPHS**



Photo 1: View shows the proposed tower location facing southwest.



Photo 2: View shows the proposed tower location facing south along the existing parking lot.



Photo 3: View shows the proposed tower location facing west.



Photo 4: View shows the proposed tower location facing north.



Photo 5: View shows the proposed tower location facing northeast.



Photo 6: View shows the proposed tower location facing east.

**ATTACHMENT 9**

**MAPS**



**APE MAP**

**FIGURE 1**

Source: USGS 7.5 Minute Topographic Map Galveston, Texas Quadrangle 2010



Site Name: Galveston Island Tower  
 502 ½ 59<sup>th</sup> Street  
 Galveston, Texas

Project Number: C312007



**AERIAL MAP**

**FIGURE 2**  
DRAWING NOT TO SCALE



Site Name: Galveston Island Tower  
502 1/2 59<sup>th</sup> Street  
Galveston, Texas  
Project Number: C312007

**ATTACHMENT 10**  
**TCNS NOTIFICATION**

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**Subject:** NOTICE OF ORGANIZATION(S) WHICH WERE SENT PROPOSED TOWER CONSTRUCTION NOTIFICATION INFORMATION – Email ID #3030643

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**From:** towernotifyinfo@fcc.gov (towernotifyinfo@fcc.gov)

---

**To:** mhelfrich@prudentweb.com;

---

**Cc:** kim.pristello@fcc.gov; diane.dupert@fcc.gov;

---

**Date:** Friday, May 25, 2012 2:01 AM

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Dear Sir or Madam:

Thank you for using the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS). The purpose of this electronic mail message is to inform you that the following authorized persons were sent the information you provided through TCNS, which relates to your proposed antenna structure. The information was forwarded by the FCC to authorized TCNS users by electronic mail and/or regular mail (letter).

Persons who have received the information that you provided include leaders or their designees of federally-recognized American Indian Tribes, including Alaska Native Villages (collectively "Tribes"), Native Hawaiian Organizations (NHOs), and State Historic Preservation Officers (SHPOs). For your convenience in identifying the referenced Tribes and in making further contacts, the City and State of the Seat of Government for each Tribe and NHO, as well as the designated contact person, is included in the listing below. We note that Tribes may have Section 106 cultural interests in ancestral homelands or other locations that are far removed from their current Seat of Government. Pursuant to the Commission's rules as set forth in the Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission (NPA), all Tribes and NHOs listed below must be afforded a reasonable opportunity to respond to this notification, consistent with the procedures set forth below, unless the proposed construction falls within an exclusion designated by the Tribe or NHO. (NPA, Section IV.F.4).

The information you provided was forwarded to the following Tribes and NHOs who have set their geographic preferences on TCNS. If the information you provided relates to a proposed antenna structure in the State of Alaska, the following list also includes Tribes located in the State of Alaska that have not specified their geographic preferences. For these Tribes and NHOs, if the Tribe or NHO does not respond within a reasonable time, you should make a reasonable effort at follow-up contact, unless the Tribe or NHO has agreed to different procedures (NPA, Section IV.F.5). In the event such a Tribe or NHO does not respond to a follow-up inquiry, or if a substantive or procedural disagreement arises between you and a Tribe or NHO, you must seek guidance from the Commission (NPA, Section IV.G). These procedures are further set forth in the FCC's Declaratory Ruling released on October 6, 2005 (FCC 05-176).

**1. THPO Assistant Kelly Glancy - Comanche Nation - Lawton, OK - regular mail**

Details: The Comanche Nation Historic Preservation Office does not need to review the following types of projects; those that have already been evaluated by the Comanche Nation involving pre-existing above-ground feature additions or modifications (unless there is an increase in height), and those that have already been evaluated by the Comanche Nation within the city limits on a previously disturbed site.

If the proposed project does not meet one of the aforementioned conditions, the Comanche Nation Historic Preservation Office requires the following items; photographs taken of all 4 directions (north, south, east and west) from the center of the project site (where possible), legal description of the proposed site (i.e.; section, range, township, etc.) and any existing archeological/environmental reports or surveys relating to the site. We do not require, but request that you provide us with an aerial view of the proposed site if possible.

Due to the heavy volume of requests, we can no longer accept email requests.

Please send all materials to the Comanche Nation Historic Preservation Office, C/O Kelly Glancy, #6 SW 'D' Avenue, Suite 'A', Lawton, Oklahoma 73502 via regular or express mail, with a \$500 review fee, per project (payable to the Comanche Nation Historic Preservation Office). Please note on the cashier s check/money order (or on an attachment), the TCNS Number/Project Name that the review fee is being provided for. Upon receipt of review fee, the Comanche Nation Historic Preservation Office will promptly respond to your review request. Other correspondence can be sent to the main P.O. Box 908, Lawton, Oklahoma 73502 address.

Note: If the Comanche Nation Office of Historic Preservation has commented previously on the project under requested review, inform us of the date in the body of the review request, and you will not be assessed a review fee. If you are in need of additional information you may contact us directly at (580) 595-9960 or 9618 for clarification. In addition, this messageserves as the 'Official' Notice from the Comanche Nation Historic Preservation Office and can be printed for your records, if necessary.

Thank you!

Sincerely,  
Jimmy W. Arterberry, THPO

2. TCNS Representative & GAP Technician Jason Prince - Wichita and Affiliated Tribes - Anadarko, OK - electronic mail and regular mail

If the applicant/tower builder receives no response from the Wichita and Affiliated Tribes within 30 days after notification through TCNS, the Wichita and Affiliated Tribes has no interest in participating in pre-construction review for the proposed site. The Applicant/tower builder, however, must immediately notify the Wichita and Affiliated Tribes in the event archaeological properties or human remains are discovered during construction, consistent with Section IX of the Nationwide Programmatic Agreement and applicable law.

3. Tribal Administrator Joshua Waffle - Tonkawa Tribe - Tonkawa, OK - electronic mail

4. Historic Preservation Officer Bryant J Celestine - Alabama-Coushatta Tribe of Texas - Livingston, TX - electronic mail

Details: Please consider this notification as our interest for consultation regarding your proposal. The Alabama-

Coushatta Tribe of Texas requests an administrative fee of \$300.00 for our services including internal file searches, elder consultations, and if necessary, travel expenses for a site visit to complete our determination regarding your proposal. TAKE NOTE of the following procedures as this will assist our efforts to provide your firm with the most efficient process in returning our determinations:

1. Submit your Form 620 or 621 by email to [celestine.bryant@actribe.org](mailto:celestine.bryant@actribe.org). Each submission is logged and within 10 days of receipt, an invoice will be returned to the email account we receive your supplemental information. IF YOU HAVE NOT RECEIVED THIS BY 15DAYS, PLEASE INQUIRE.
2. INCLUDE your invoice number on your payment and submit according to the Invoice instructions. We cannot track your payment by project number so please do not submit without an invoice number.
3. Within 20 days of your original submission, you will receive an email response from our Office relating to our determinations for your proposal. This may occur despite a delay in fee payment. If you have not received our determination within 25 days, PLEASE INQUIRE.
4. IN THE EVENT OF AN OUTSTANDING BALANCE, a detailed invoice will be submitted in place of our determination. In this manner, your Section 106 obligations without Tribe ARE NOT complete until we have forwarded our written response indicating our determination.
5. If the applicant/tower builder decides to withdraw a proposal, please advise our office as soon as possible to avoid an outstanding balance in the future and any unnecessary research by our office.

Thank you, Bryant J. Celestine - Historic Preservation Officer

5. THPO Linda P Langley Dr - Coushatta Indian Tribe - Elton, LA - electronic mail and regular mail

6. Tribal Historic Preservation Officer Holly B Houghten - Mescalero Apache Tribe - Mescalero, NM - electronic mail

Details: The Mescalero Apache Tribe does not wish to review towers that are being placed upon existing buildings. For review of all other proposed towers located within the Mescalero Apache Tribe's traditional homelands, the Tribe will charge a \$125.00 review fee. Please send this fee to the Historic Preservation Office, Mescalero Apache Tribe, P.O. Box 227, Mescalero, NM 88340. Please make the check payable to the Mescalero Apache Tribe and note on the check, or an attachment, the TCNS# or project name/number that the review fee is provided for. Upon receipt of the review fee, the Mescalero Apache Tribe will promptly respond to your review request.

The information you provided was also forwarded to the additional Tribes and NHOs listed below. These Tribes and NHOs have NOT set their geographic preferences on TCNS, and therefore they are currently receiving tower notifications for the entire United States. For these Tribes and NHOs, you are required to use reasonable and good faith efforts to determine if the Tribe or NHO may attach religious and cultural significance to historic properties that may be affected by its proposed undertaking. Such efforts may include, but are not limited to, seeking information from the relevant SHPO or THPO, Indian Tribes, state agencies, the U.S. Bureau of Indian

Affairs, or, where applicable, any federal agency with land holdings within the state (NPA, Section IV.B). If after such reasonable and good faith efforts, you determine that a Tribe or NHO may attach religious and cultural significance to historic properties in the area and the Tribe or NHO does not respond to TCNS notification within a reasonable time, you should make a reasonable effort to follow up, and must seek guidance from the Commission in the event of continued non-response or in the event of a procedural or substantive disagreement. If you determine that the Tribe or NHO is unlikely to attach religious and cultural significance to historic properties within the area, you do not need to take further action unless the Tribe or NHO indicates an interest in the proposed construction or other evidence of potential interest comes to your attention.

None

The information you provided was also forwarded to the following SHPOs in the State in which you propose to construct and neighboring States. The information was provided to these SHPOs as a courtesy for their information and planning. You need make no effort at this time to follow up with any SHPO that does not respond to this notification. Prior to construction, you must provide the SHPO of the State in which you propose to construct (or the Tribal Historic Preservation Officer, if the project will be located on certain Tribal lands), with a Submission Packet pursuant to Section VII.A of the NPA.

7. SHPO Cathie Matthews - Department of Arkansas Heritage - Little Rock, AR - electronic mail

8. Deputy SHPO Ken Grunewald - Department of Arkansas Heritage - Little Rock, AR - electronic mail

9. SHPO Bob L Blackburn - Oklahoma Historical Society - Oklahoma City, OK - regular mail

10. Historian Linda Henderson - Texas Historical Commission - Austin, TX - electronic mail

If you are proposing to construct a facility in the State of Alaska, you should contact Commission staff for guidance regarding your obligations in the event that Tribes do not respond to this notification within a reasonable time.

Please be advised that the FCC cannot guarantee that the contact(s) listed above opened and reviewed an electronic or regular mail notification. The following information relating to the proposed tower was forwarded to the person(s) listed above:

Notification Received: 05/16/2012

Notification ID: 85731

Tower Owner Individual or Entity Name: CFE Telecome  
Consultant Name: Morgan Helfrich  
Street Address: 4242 Medical Drive, Suite 5250  
City: San Antonio  
State: TEXAS  
Zip Code: 78229  
Phone: 210-822-9588  
Email: [mhelfrich@prudentweb.com](mailto:mhelfrich@prudentweb.com)

Structure Type: UTOWER - Unguyed - Free Standing Tower  
Latitude: 29 deg 17 min 37.3 sec N  
Longitude: 94 deg 50 min 0.8 sec W  
Location Description: New Tower and associated equipment @ 502 1/2 59th Street  
City: Galveston  
State: TEXAS  
County: GALVESTON  
Ground Elevation: 1.5 meters  
Support Structure: 106.7 meters above ground level  
Overall Structure: 106.7 meters above ground level  
Overall Height AMSL: 108.2 meters above mean sea level

If you have any questions or comments regarding this notice, please contact the FCC using the electronic mail form located on the FCC's website at:

<http://wireless.fcc.gov/outreach/notification/contact-fcc.html>

You may also call the FCC Support Center at (877) 480-3201 (TTY 717-338-2824). Hours are from 8 a.m. to 7:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls are recorded.

Thank you,  
Federal Communications Commission

**ATTACHMENT 11**  
**TEXAS SHPO RESPONSE**

**TEXAS HISTORICAL COMMISSION**

*real places telling real stories*

July 20, 2012

Tomas Hernandez, Jr., P.G.  
Senior Project Manager  
Prudent Technologies, Inc.  
4242 Medical Drive, Suite 5250  
San Antonio, Texas 78229

*Re: Project review under Section 106 of the National Historic Preservation Act of 1966,  
New Galveston Island Tower, 502 ½ 59<sup>th</sup> Street, Galveston, Galveston County, Texas (FCC/106)*

Dear Mr. Hernandez:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Linda Henderson and Kelly Little, has completed its review of the documentation provided, received on June 22, 2012. Thank you for providing additional information via email on July 17 pursuant to our request. Based on this material, the proposed project entails construction of a new 350-foot self-support telecommunications tower and associated equipment compound. No historic properties have been identified in the Area of Potential Effects (APE) for direct effects, but the Texas Heroes Neighborhood, which has been determined eligible for listing in the National Register of Historic Places, is located within the APE for potential visual effects. The project as described will have **NO ADVERSE EFFECT** upon historic resources and no further consultation with our office is necessary under Section 106.

Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. We look forward to future consultation with your office and hope to maintain a partnership that will foster effective historic preservation. **If you have any questions concerning our review or if we can be of further assistance, please contact Kelly Little at 512/463-7687.**

Sincerely,

  
Kelly Little, Project Reviewer  
for: Mark Wolfe, State Historic Preservation Officer

MW/kl

cc: Alecyia Gallaway, Chair, Galveston County Historical Commission  
Lori Feild-Schwarz, Planning and Community Development, City of Galveston



**ATTACHMENT 12**  
**TRIBE RESPONSES**

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**Subject:** Reply to Proposed Tower Structure (Notification ID: 85731) – Email ID #3033827

---

**From:** towernotifyinfo@fcc.gov (towernotifyinfo@fcc.gov)

---

**To:** mhelfrich@prudentweb.com;

---

**Cc:** tcns.fccarchive@fcc.gov; jwaffle@tonkawatribe.com;

---

**Date:** Tuesday, May 29, 2012 8:55 AM

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Dear CFE Telecome,

Thank you for using the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS). The purpose of this email is to inform you that an authorized user of the TCNS has replied to a proposed tower construction notification that you had submitted through the TCNS.

The following message has been sent to you from Tribal Administrator Joshua Waffle of the Tonkawa Tribe in reference to Notification ID #85731:

The following site(s) have been reviewed and to date (Tuesday, May 29, 2012) with current resources, the Tonkawa Tribe has no known burial sites of the Tonkawa Indians. If any remains or artifacts are discovered please contact the appropriate Agencies and our Tribal Facilities immediately. If the Tonkawa Tribes databases change in regards to the statement in this letter, a Tribal Representative will contact you.

Respectfully,

Joshua Waffle

Tribal Administrator Tonkawa Tribe

Ph 580 628 2561 124

Fx 580 628 2279

Cl 580 491 1209

[jwaffle@tonkawatribe.com](mailto:jwaffle@tonkawatribe.com)

For your convenience, the information you submitted for this notification is detailed below.

Notification Received: 05/16/2012

Notification ID: 85731

Tower Owner Individual or Entity Name: CFE Telecome

Consultant Name: Morgan Helfrich

Street Address: 4242 Medical Drive, Suite 5250

City: San Antonio

State: TEXAS

Zip Code: 78229

Phone: 210-822-9588

Email: [mhelfrich@prudentweb.com](mailto:mhelfrich@prudentweb.com)

Structure Type: UTOWER - Unguyed - Free Standing Tower

Latitude: 29 deg 17 min 37.3 sec N

Longitude: 94 deg 50 min 0.8 sec W

Location Description: New Tower and associated equipment @ 502 1/2 59th Street

City: Galveston

State: TEXAS

County: GALVESTON

Ground Elevation: 1.5 meters

Support Structure: 106.7 meters above ground level

Overall Structure: 106.7 meters above ground level

Overall Height AMSL: 108.2 meters above mean sea level

Ms. Morgan M. Helfrich  
Staff Scientist  
Prudent Environmental Service, Inc.  
4242 Medical Drive, Suite 5250  
San Antonio, TX 78229

**RE: Proposed New Telecommunication Towers  
Tribal Consultation Response Letter  
Responding to Initial Contact Reminder**

**1) Galveston Island Tower  
502 ½ 59<sup>th</sup> Street  
Galveston, Texas 77551  
TCNS# 85731**

Dear Ms. Helfrich:

I have reviewed your Consultation Request under Section 106 of the National Historic Preservation Act regarding the proposed collocation of wireless antennas project referenced above and offer the following response as indicated by the box that is checked and my initials.

- NO INTEREST** \_\_\_\_\_ (Initials of duly authorized Tribal official)  
I have determined that there is not a likelihood of eligible properties of religious and cultural significant to the Ute Indian Tribe in the proposed tower construction area.
- REQUEST ADDITIONAL INFORMATION** \_\_\_\_\_ (Initials of duly authorized Tribal official)  
I require the following additional information in order to provide a finding of effect for this proposed undertaking: \_\_\_\_\_.
- NO EFFECT**  (Initials of duly authorized Tribal official)  
I have determined that there are no properties of religious and cultural significance to the Ute Indian Tribe that are listed on the National Register within the area of potential effect or that the proposed project will have no effect on any such properties that may be present.
- NO ADVERSE EFFECT** \_\_\_\_\_ (Initials of duly authorized Tribal official)  
I have identified properties of cultural and religious significance within the area of effect that I believe are eligible for listing in the National Register, for which there would be no adverse effect as a result of the proposed tower construction project.
- ADVERSE EFFECT** \_\_\_\_\_ (Initials of duly authorized Tribal official)  
I have identified properties of cultural and religious significance within the area of potential effect that are eligible for listing in the National Register. I believe the proposed communication tower construction project would cause an adverse effect on these properties.

 \_\_\_\_\_ (Signature of duly authorized Tribal official)

**Bryant J. Celestine, Historic Preservation Officer** (Printed Name/Title)

**Alabama-Coushatta Tribe of Texas** (Name of Tribe)

**July 23, 2012** (Date)



# COUSHATTA TRIBE OF LOUISIANA

HERITAGE DEPARTMENT

08/07/2012

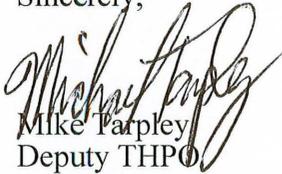
Morgan Helfrich  
Prudent Technologies, INC.  
4242 Medical Drive, Suite 5250  
San Antonio, Texas 78229

Dear Ms. Helfrich:

We received your payment of \$350.00 in check number 36744 for the Site assigned to TCNS # 85731 & Invoice # 05.12.095 for the construction of a communication tower located at New Tower and associated equipment @ 502 1/2 59th Street, Galveston, Galveston County, Texas. I have enclosed receipt numbered 05.12.095 for your accounts receivable records.

At this time, we know of no known sacred and/or ceremonial sites in the immediate area. However, if any cultural resources, such as, bone, pottery, flakes or stone tools, etc, are found during the construction please contact us immediately.

Sincerely,

  
Mike Farpley  
Deputy THPO  
Enclosures

**KOWASSAATON NATHIHILKAS—LET US SPEAK KOASATI**

# Comanche Nation Office of Historic Preservation



Tomas Hernandez  
Prudent Environmental Services  
4242 Medical Dr., Suite 5250  
San Antonio, TX 78229

June 25, 2012

Re: TCNS # 85731 (Site: Galveston Island Tower)

Dear Mr. Hernandez:

In response to your request, the above referenced project has been reviewed by staff of this office. Based on the information provided and a search within the Comanche Nation Site Files, we have determined that there are *no properties* affected by this undertaking.

If you require additional information or are in need of further assistance, please contact this office at (580) 595-9960 or 9618.

This review is performed in order to locate, record, and preserve the Comanche Nation and State's prehistoric and historic cultural heritage, in cooperation with the State Historic Preservation Office.

Sincerely,



Kelly Glancy, HPO Assistant  
Tribal Historic Preservation Office  
Comanche Nation

## Refer Notification

**Notification ID:** 85731

**Notification Submitted:** 05/16/2012

**Notification sent to the Tribe:** 05/23/2012

**Location:** New Tower and associated equipment @ 502 1/2 59th Street, Galveston, TX

The Tribes/NHOs listed below were initially notified of this proposed tower construction.

### Second Contact Date Information

Provide the date of your second contact attempting to obtain a response from each Indian Tribe/NHO about this proposed tower or antenna.

If you made your second contact with all Tribes/NHOs that have not responded on the same date, you may enter that date at the top of the screen below. If you made your second contacts with different Tribes/NHOs on different dates, you must enter the appropriate date for each Tribe/NHO that you select.

### Select the Tribes/NHOs who have not responded

[Select All](#) | [Reset](#)

	Tribe/NHO Name	Comment	Second Contact Date <input type="text"/> <a href="#">Apply to Selected Tribes/NHOs</a>
	Alabama-Coushatta Tribe of Texas	This Tribe/NHO submitted a <a href="#">response to your notification through TCNS</a> .	
<input type="checkbox"/>	Comanche Nation		<input type="text"/>
<input type="checkbox"/>	Coushatta Indian Tribe		<input type="text"/>
	Mescalero Apache Tribe	This Notification has already been Referred to the FCC for this Tribe/NHO.	
	Tonkawa Tribe	This Tribe/NHO submitted a <a href="#">response to your notification through TCNS</a> .	
	Wichita and Affiliated Tribes	This Tribe/NHO has indicated that no response means they have no interest.	

[CONTINUE](#) ▶

**APPENDIX C – COASTAL COORDINATION COUNCIL  
GENERAL CONCURRENCE #5 LETTER**

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**COASTAL COORDINATION COUNCIL  
GENERAL CONCURRENCE #5**

**Regarding Federal Emergency Management Agency (FEMA) assistance to areas of  
Texas designated as major disaster areas**

Pursuant to 31 Texas Administrative Code (TAC) §§506.28 & 506.35 and 15 Code of Federal Regulations (CFR) §930.53(b), the Coastal Coordination Council (Council) issues the following General Concurrence #5 (GC5) for FEMA assistance in federally declared disaster areas.

**Section 1: Purpose and Intent**

- A. The purpose of this GC5 is to assist FEMA by expediting consistency review of certain FEMA-funded activities under the Texas Coastal Management Program (CMP) and to identify the certain activities affecting certain coastal natural resource areas (CNRAs) that must undergo a full consistency determination. The purpose of the GC5 is to minimize the number of consistency reviews that must be performed for activities that are minor in scope and that do not have significant adverse effects on CNRAs within the Texas CMP boundary. The CMP boundary is depicted in Appendix A of this document and is more particularly described in 31 TAC §503.1.
- B. FEMA and the Council acknowledge that the implementation of disaster assistance will be more effective if specific procedures are developed to expedite consistency review activities by the Council for activities with little potential to affect CMP Areas. This GC5 should shorten the time needed to comply with the Texas CMP for FEMA-funded projects and allow FEMA to more readily provide assistance following a federally declared disaster on the Texas coast.
- C. FEMA and DEM implement the Individual and Public 'grants' under FEMA's Individual and Public Assistance programs, as defined in 44 CFR §206.2(15)&(20). FEMA has determined that the implementation of the programs in 44 CFR Part 206 may have an effect upon properties within the Texas CMP boundary. Therefore, FEMA and the Council agree that these disaster assistance programs shall be administered in accordance with the following Sections, which will ensure compliance under the CMP.

**Section 2: Activities Covered**

- A. This GC5 is intended to incorporate FEMA's existing process for providing assistance for projects in major disaster areas. FEMA proposes to administer federal programs pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (Stafford Act), and its implementing regulations contained in Title 44 CFR Part 206, regarding assistance for the repair or replacement of damaged facilities and structures,

including approved Stafford Act Section 404 and 406 mitigation measures, 42 U.S.C. §§5170c & 5172.

B. The Council finds that the following assistance activities will not have direct or significant adverse effects on CNRAs and determines that FEMA or its grantees and subgrantees need not submit consistency findings for the following activities within the Texas CMP boundaries:

1. Funding of emergency response activities as provided under Stafford Act Section 403 (42 U.S.C. §5170b), Category A: Debris Removal and Category B: Emergency Protective Measures that are necessary when there is an unacceptable hazard to life, when there is an immediate threat of significant loss of property, or where an immediate and unforeseen economic hardship is likely if corrective action is not taken within a time period less than the normal time needed under standard procedures in 31 TAC §506.51. This includes activities that are necessary to protect public health and safety, as defined in Emergency 44 CFR §206.2(9), including direct federal assistance, funded by FEMA, such as water, ice, and power generation teams.
2. Individual 'grants' under FEMA's Individual Assistance Program, as defined in 44 CFR § 206.2(15).
3. Repair and construction projects that are covered under Categories C: Roads and Bridges, D: Water Control Facilities, E: Buildings and Equipment, F: Utilities, and G: Parks, Recreational Facilities, and other Items included in Stafford Act Section 403 (42 U.S.C. §5170b), and that have the same function, capacity, and footprint as existed prior to the major disaster, including upgrades to current codes and standards, provided that all three conditions are met. These projects are only exempt from the consistency requirements if they do not fall within the CNRAs listed in subsection "C" below. Even if all three conditions are met, a project may require a consistency determination, as outlined in subsection "C" below.
4. Repair or replacement of automobiles and equipment.
5. Repairs and construction inside or outside of structures in the same footprint, even if the repairs have a different function and capacity than previously existed; and which may occur in previously disturbed areas around the exterior of the structure.
6. Reconstruction of Coastal Historic Areas. A historic area is defined as a site that is specially identified in rules adopted by the Texas Historical Commission as being coastal in character and that is: (A) a site on or eligible for the National Register of Historic Places, designated under 16 USC §470a and 36 CFR, Part 63, Chapter 1: or (B) a state archaeological landmark, as defined by Texas Natural Resource Code (TNRC), Subchapter D, Ch. 191. These are governed by the *Programmatic Agreement Among the Federal Emergency Management Agency, the Texas State Historic Preservation Office, the Texas Department of Public*

*Safety, Division of Emergency Management, and the Advisory Council on Historic Preservation (PA) or any subsequent replacement documents. Compliance with the PA satisfies the requirements of 31 TAC §501.14(o), and no separate consistency review is required.*

- C. Consistency determinations are required for activities over which the Council has jurisdiction, if they occur in certain CNRA areas within the CMP boundary, even if the project has the same function, capacity, and footprint as existed prior to the major disaster. FEMA may fund a necessary emergency response activity within a CNRA without a consistency determination when the emergency response activity was performed to prevent an unacceptable hazard to life, an immediate threat of significant loss of property, or where an immediate and unforeseen economic hardship is likely if corrective action were not taken within a time period less than the normal time needed under standard procedures in 31 TAC §506.51. Maps and information on all of the CNRA areas below may be found on the General Land Office's web site at <http://www.glo.state.tx.us/gisdata/gisdata.html>. FEMA must provide consistency determinations for projects that fall within the following CNRA areas.
1. Critical Areas. These are defined in TNRC §33.203(8) and 31 TAC §501.3(a)(8) as a coastal wetland, oyster reef, hard substrate reef, submerged aquatic vegetation, or tidal sand or mud flat. Each of these critical areas is more specifically described under 31 TAC §501.3(b) (See Appendix B). Dredging and construction of structures in, or the discharge of dredged or fill material into critical areas must comply with the policies in 31 TAC §501.14(h).
  2. Submerged Lands "Submerged land" means land located under waters under tidal influence or under waters of the open Gulf of Mexico, without regard to whether the land is owned by the state or a person other than the state. TNRC §33.203(15) and 31 TAC §501.3(b)(12). Development on submerged lands must comply with the policies in 31 TAC §501.14(i).
  3. Beach/Dune System and Critical Dune Areas. "Critical dune area" is defined as a protected sand dune complex on the Gulf shoreline within 1,000 feet of Mean High Tide in TNRC §33.203(9) and 31 TAC §501.3(b)(6). Construction in critical dune areas and adjacent to Gulf beaches must comply with the policies in 31 TAC §501.14(k).
  4. Coastal Hazard Areas. These are defined in 31 TAC §501.3(a)(4) as special hazard areas and critical erosion areas. Definitions of special hazard areas and critical erosion areas may be found in Appendix C. Goals and policies for determining the consistency of development in coastal hazard areas are found in 31 TAC §501.14(l).
  5. Coastal Barriers. These are defined in TNRC §33.203(2) and 31 TAC §501.3(b)(1) as an undeveloped area on a barrier island, peninsula, or other protected area, as designated by United States Fish and Wildlife Service maps. Development of new infrastructure or major repair of

existing infrastructure within or supporting development within Coastal Barrier Resource System Units and Otherwise Protected Areas designated on maps dated October 24, 1990, under the Coastal Barrier Resources Act, 16 United States Code Annotated, §3503(a), must comply with the policies in 31 TAC §501.14(m).

6. State Parks, Wildlife Management Areas or Preserves. "Coastal preserve" is defined in 31 TAC §501.3(b)(3) as any land, including a park or wildlife management area, that is owned by the state and that is subject to Chapter 26, Parks and Wildlife Code, because it is a park, recreation area, scientific area, wildlife refuge, or historic site; and designated by the Texas Parks and Wildlife Commission as being coastal in character. Under 31 TAC §501.14(n), development by a person other than the Parks and Wildlife Department that requires the use or taking of any public land in such areas must comply with Texas Parks and Wildlife Code, Chapter 26.
7. Coastal shore areas, defined in TNRC §33.203(5) as an area within 100 feet landward of the highwater mark on submerged land.
8. Water under tidal influence, defined in TNRC §33.203(19) as water in this state, as defined by Section 26.001(5), Water Code, that is subject to tidal influence according to the Texas Commission on Environmental Quality's (formerly the Texas Natural Resource Conservation Commission's) stream segment map. The term includes coastal wetlands. The Council shall provide FEMA a detailed map indicating these areas influenced by tidal waters.

### **Section 3: Notification Procedures**

For those proposed activities that will be reviewed for consistency with the CMP under the Council's rules (31 TAC §§506.50-506.52), FEMA shall submit to the Council Secretary FEMA's project worksheet, proposed work, and the name, address and telephone number for a point of contact. A description of the project must include at least the application, and location map, and supporting material required by FEMA, as well as the information required by Council rules at 31 TAC §506.50(c), which includes a brief evaluation on the relationship of the proposed activity to the CMP goals and policies and an evaluation of any reasonably foreseeable coastal effects. Under 31 TAC §506.51(d), if three members do not refer an application to the Council within 30 days of the date the Council Secretary receives a copy of the application, then the application is conclusively presumed to be consistent with the CMP.

### **Section 4: Interagency Coordination Procedures**

The Council will work with FEMA and DEM in scoping meetings to identify CMP concerns and CMP applicability to FEMA activities following a federally declared disaster. FEMA and the Council may adopt amendments to this GC5 based on the scope of an individual disaster.

## Section 5: Termination

- A. The Council may modify this GC5 by issuing another general concurrence, amendment or further revision. Prior to issuing any general concurrence or amendment that modifies or revises this GC5, the Council shall coordinate any modifications or revisions with FEMA.
- B. After consultation with FEMA, the Council may terminate this GC5 by publishing notice of the termination in the *Texas Register* at least thirty days prior to the termination date.
- C. FEMA may terminate this GC5 by providing 30 days written notice to the Council, provided that FEMA and the Council will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. This GC5 may be terminated by the execution of a subsequent GC that explicitly terminates or supersedes its terms.

Coastal Coordination Council  
General Concurrence #5

David Dewhurst

David Dewhurst  
Chairman  
Coastal Coordination Council

10-25-2002

Date

Ron Castleman

Ron Castleman  
Regional Director  
FEMA, Region VI

11-6-02

Date

~~Jack Colley  
State Coordinator  
Texas Department of Public Safety  
Division of Emergency Management~~

~~Date~~

Tom Haas

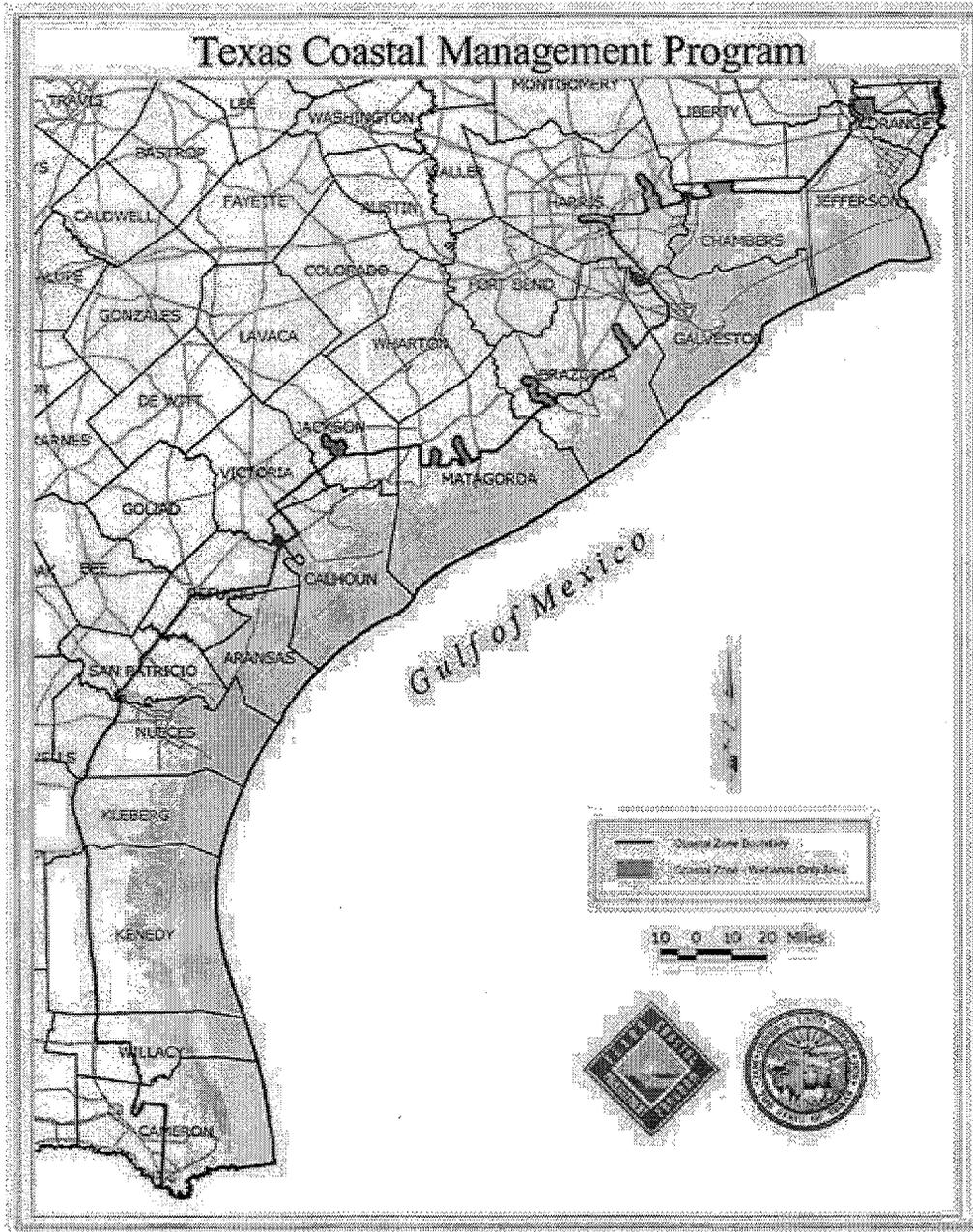
Tom Haas

11-13-02

Date

Chief Financial Officer  
Texas Department of Public Safety

FEMA General Concurrence 5  
APPENDIX A – MAP OF COASTAL MANAGEMENT PROGRAM BOUNDARY



FEMA General Concurrence 5  
APPENDIX B – CRITICAL AREAS

Critical Areas. Defined in Texas Natural Resource Code (TNRC) §33.203(8) and 31 TAC §501.3(a)(8) as a coastal wetland, oyster reef, hard substrate reef, submerged aquatic vegetation, or tidal sand or mud flat. Dredging and construction of structures in, or the discharge of dredged or fill material into critical areas must comply with the policies in 31 TAC §501.14(h).

a. Coastal Wetlands. Defined in TNRC §33.203(7) and 31 TAC §501.3(b)(5), are Wetlands, as the term is defined by Texas Water Code §11.502, located:

(1) seaward of the Coastal Facility Designation Line, established by rules adopted under Texas Natural Resources Code, Chapter 40;

(2) within rivers and streams to the extent of tidal influence, as shown on the Texas Natural Resource Conservation Commission's stream segment maps and described as follows:

(a) Arroyo Colorado from FM Road 1847 to a point 100 meters (110 yards) downstream of Cemetery Road south of the Port of Harlingen in Cameron County;

(b) Nueces River from US Highway 77 to the Calallen Dam 1.7 kilometers (1.1 miles) upstream of U.S. Highway 77 in Nueces/San Patricio County;

(c) Guadalupe River from State Highway 35 to the Guadalupe-Blanco River Authority Salt Water Barrier at 0.7 kilometers (0.4 miles) downstream of the confluence with the San Antonio River in Calhoun/Refugio County;

(d) Lavaca River from FM Road 616 to a point 8.6 kilometers (5.3 miles) downstream of US Highway 59 in Jackson County;

(e) Navidad River from FM Road 616 to Palmetto Bend Dam in Jackson County;

(f) Tres Palacios Creek from FM Road 521 to a point 0.6 kilometer (0.4 mile) upstream of the confluence with Wilson Creek in Matagorda County;

(g) Colorado River from FM Road 521 to a point 2.1 kilometers (1.3 miles) downstream of the Missouri-Pacific Railroad in Matagorda County;

(h) San Bernard River from FM Road 521 to a point 3.2 kilometers (2.0 miles) upstream of State Highway 35 in Brazoria County;

(i) Chocolate Bayou from FM Road 2004 to a point 4.2 kilometers (2.6 miles) downstream of State Highway 35 in Brazoria County;

(j) Clear Creek from Interstate Highway 45 to a point 100 meters (110 yards) upstream of FM Road 528 in Galveston/Harris County;

(k) Buffalo Bayou (Houston Ship Channel) from Interstate Highway 610 to a point 400 meters (440 yards) upstream of Shepherd Drive in Harris County;

(l) San Jacinto River from Interstate Highway 10 upstream to the Lake Houston dam in Harris County;

(m) Cedar Bayou from Interstate Highway 10 to a point 2.2 kilometers (1.4 miles) upstream of Interstate Highway 10 in Chambers/Harris County;

(n) Trinity River from Interstate Highway 10 to the border between Chambers and Liberty Counties;

(o) Neches River from Interstate Highway 10 to a point 11.3 kilometers (7.0 miles) upstream of Interstate Highway 10 in Orange County;

(p) Sabine River from Interstate Highway 10 upstream to Morgan Bluff in Orange County; or

(3) within one mile of the mean high tide line of the portion of rivers and streams described by subparagraph (2) of this paragraph, except for the Trinity and Neches rivers.

(a) For the portion of the Trinity River described by subparagraph (2) of this paragraph, coastal wetlands include those wetlands located between the mean high tide line on the western shoreline of that portion of the river and FM Road 565 and FM Road 1409 or located between the mean high tide line on the eastern shoreline of that portion of the river and FM Road 563.

(b) For the portion of the Neches River described by subparagraph (2) of this paragraph, coastal wetlands include those wetlands located within one mile of the mean high tide line of the western shoreline of that portion of the river or located between the mean high tide line on the eastern shoreline of that portion of the river and FM Road 105.

b. Oyster reef. Defined in TNRC §33.203(13) and 31 TAC §501.3(b)(10), as a natural or artificial formation that is:

- (1) composed of oyster shell, live oysters, and other living or dead organisms;
- (2) discrete, contiguous, and clearly distinguishable from scattered oyster shell or oysters; and
- (3) located in an intertidal or subtidal area.

c. Hard substrate reef. A naturally occurring hard substrate formation, including a rock outcrop or serpulid worm reef, living or dead, in an intertidal or subtidal area. TNRC §33.203(12) and 31 TAC §501.3(b)(9).

d. Submerged aquatic vegetation. Rooted aquatic vegetation growing in permanently inundated areas in estuarine and marine systems. TNRC §33.203(16) and 31 TAC §501.3(b)(13).

e. Tidal sand or mud flat. A silt, clay, or sand substrate, without regard to whether it is vegetated by algal mats, that occur in intertidal areas and that are regularly or intermittently exposed and flooded by tides, including tides induced by weather. TNRC §33.203(17) and 31 TAC §501.3(b)(14).

FEMA General Concurrence 5  
APPENDIX C – COASTAL HAZARD AREAS

Coastal Hazard Areas are defined in 31 TAC §501.3(a)(4) as special hazard areas and critical erosion areas. Goals and policies for determining the consistency of development in coastal hazard areas are found in 31 TAC §501.14(1).

a. A “special hazard area” is defined in TNRC §33.203(14) and 31 TAC §501.3(b)(11) as an area designated under 42 USCA §4001 et seq. as having special flood, mudslide or mudflow, or flood-related erosion hazards and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E. Under 31 TAC §501.14(1)(1), subdivisions participating in the National Flood Insurance Program shall adopt ordinances or orders governing development in special hazard areas.

b. A “critical coastal erosion area” or “critical erosion area” is defined in TNRC §33.601(4) and 31 TAC §501.3(b)(7) as a coastal area that is experiencing historical erosion, according to the most recently published data of the Bureau of Economic Geology of The University of Texas at Austin, that the commissioner finds to be a threat to:

1. Public health, safety, or welfare;
2. Public beach use or access;
3. General recreation;
4. Traffic safety;
5. Public property or infrastructure;
6. Private commercial or residential property;
7. Fish or wildlife habitat; or
8. An area of regional or national importance.