



STATE OF CONNECTICUT

June 1, 2016

Richard Nicklas
Branch Chief
Floodplain Management and Insurance Branch
FEMA Region I
Mitigation Division
99 High Street, 6th floor
Boston, MA 02110-2320

Exhibit
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RE: NFIP Technical Review Request - Penfield Pavilion, 323 Fairfield Beach Road, Fairfield, Connecticut

Dear Mr. Nicklas:

The State of Connecticut Department of Emergency Services and Public Protection Division of Emergency Management and Homeland Security (DESPP/DEMHS) and the Department of Energy and Environmental Protection (DEEP) are requesting a technical review for NFIP compliance of the Penfield Pavilion repair project being funded through the Public Assistance (PA) program. Below is a brief history of the project.

Penfield Pavilion was damaged by Superstorm Sandy on October 29, 2012. Following Sandy, the Town of Fairfield submitted a Request for Public Assistance (RPA) for the repair of this facility. FEMA, working with the applicant, began to develop a scope of work (SOW) to repair this facility. Fairfield, at the recommendation of their consultant, Witt O'Brien's, requested that this facility be evaluated for full replacement under the FEMA 50% rule. Upon completion of the evaluation, it was determined that this facility did qualify for total replacement under the 50% rule and FEMA developed and approved DR-4087 PW-680.

Subsequently Fairfield decided instead, to repair the existing building and initiated the construction on February 29, 2016 without an official change to the original FEMA Approved replacement SOW. On April 18, 2016, Fairfield submitted a letter to DESPP/DEMHS requesting a revision to the approved SOW for PW-680 to bring the SOW in line with the repair option the town decided to pursue.

Fairfield also applied to the Connecticut Department of Housing (DOH) for Sandy CDBG-DR funds to be used toward the Pavilion repair project. This triggered a DEEP review of the project for a Flood Management Certification (FMC), a state permit required when state funds are utilized for a project located in the 100-year floodplain. DEEP staff questioned NFIP compliance on some aspects of the construction. During the review of the FMC application, DEEP staff visited the site on March 1, 2016 and observed that construction activities had started without an FMC from DEEP. The DEEP Office of Long Island Sound Programs (OLISP) also found that Fairfield had constructed a bulkhead in front of the Pavilion between the time of Tropical Storm Irene (August 28, 2010) and Superstorm Sandy (October 29, 2012) without the requisite coastal site plan review (CSPR), approval and mandatory CSPR referral to DEEP OLISP for comment. This referral is required by the Connecticut Coastal Management Act (CCMA), pursuant to Connecticut General Statute (CGS) §22a-109(d).

On March 9, 2016, CTDEEP held a meeting with the Town of Fairfield, their design consultants, and DOH to discuss concerns with the application, NFIP requirements, state FMC requirements, and coastal

management issues. The plans submitted with the FMC application showed a rip rap revetment was to be installed in front of the bulkhead as part of the current construction activities. At the March 9 meeting, OLISP requested the bulkhead be removed and the revetment not be installed, as it had not been referred to OLISP for comment pursuant to CGS §22a-109(d). In early April 2016, Fairfield's contractor installed the revetment along the east side of the bulkhead. On April 28, 2016, DEEP staff Diane Ifkovic (State NFIP Coordinator), Stacy Pappano (FMC) and Kristal Kallenberg (OLISP) performed a site visit. The DEEP followed-up with telephone calls and written correspondence requesting that the bulkhead and rip rap revetment be removed. Fairfield is currently in the process of partially removing the bulkhead and rip rap revetment in accordance with an agreement between Fairfield and DEEP OLISP.

The same DEEP staff met with DESPP/DEMHS PA staff Dana Conover and Judy Pahl on Monday, May 9, 2016 to discuss the project. On May 18, 2016, DEEP staff Diane Ifkovic, Stacy Pappano, Kristal Kallenberg, and Brian Thompson (Director of OLISP) and DESPP PA staff Dana Conover and Judy Pahl met with town officials to discuss the various issues surrounding the PA SOW revision and funding issues, bulkhead and revetment removal, and NFIP compliance concerns. At this meeting the town was advised that the PA SOW would need to be revised to reflect the current repair project and the removal of the bulkhead and rip rap. Fairfield asserts that the building construction plans are compliant with NFIP requirements. At this meeting Diane Ifkovic (State NFIP Coordinator, DEEP) expressed concern about the project's compliance with NFIP requirements, in particular compliance with the free-of-obstruction requirement (Technical Bulletin 5). Dana Conover (PA Coordinator, DESPP/DEMHS) stressed the need for this project to be NFIP compliant and that non-compliance could render the project ineligible for funding under the FEMA PA Program. The design engineer for this project stated that it was his professional opinion that the designs were entirely compliant with all NFIP requirements. After some discussion it was agreed upon by all parties that the best course of action was to request a technical review by FEMA on the compliance of the design plans with the NFIP requirements, in particular Technical Bulletin 5. The goal of this review is to assure all parties of the compliance with NFIP regulations and to avoid any potential eligibility and reimbursement concerns upon completion of the PA project. Therefore, the State of Connecticut DEEP and DESPP/DEMHS are jointly requesting that FEMA Mitigation Division staff and FEMA PA staff review the design plans for NFIP compliance in order that the PA SOW be re-written accurately so that there are no reimbursement issues upon project completion.

This site is in the VE zone with a BFE of 13 feet (see additional information below on FIRMs). From the NFIP compliance perspective, there is very little room for flow through under the building due to the following construction elements which DEEP maintains violates the free-of-obstruction requirement, which is best seen on plan sheet A300:

- Current existing grade is being raised both around and beneath the structure that substantially reduces flow under and through the structure.
- Two feet of new fill is being placed in the rear parking lot to raise the grade so there are fewer steps up into the finished first floor of the structure.
- Stairs have no flow-through, see site plan sheet SP300.
- New fill is being placed under the entire building to bring the elevation up to 11 feet.

- A new 3 foot high retaining wall is being constructed between the building and the parking lot, which runs the entire length of the building, in order to retain the new fill under the building.
- The un-permitted bulkhead and riprap revetment in front of the building has led to a raised, "manufactured" grade in front of the structure that is above the existing grade of the site.

Town officials maintain that the construction is compliant with the NFIP and Technical Bulletin 5, Free-Of-Obstruction Requirements, specifically language on page 21 (Fill) and page 24 (Ground Elevations At Or Above BFE). DEEP, as the regulatory agency, does not consider the amount of fill proposed to be "minor". DEEP is concerned that raising the grade around and beneath the structure, and the construction of retaining walls, violates the free-of-obstruction requirement.

On May 12, 2018, DEEP rejected the FMC application due to insufficiencies and non-compliance with state requirements, see attached letter to DOH. The original PA SOW identified the new structure would be elevated to 2.5 feet above the BFE (BFE 13 feet plus 2.5 feet = 15.5 feet). The repaired Pavilion is being constructed with the lowest structural member at 13 feet and a finished floor at 14.5 feet. In order to comply with state FMC requirements, the Pavilion would need to elevate the lowest horizontal structural member to 14 feet (BFE 13 feet plus 1 foot freeboard) since the structure is located in a VE zone. The Town of Fairfield is unwilling to elevate to the state FMC requirements, therefore DOH Sandy CDBG-DR cannot be utilized for the project.

Additional information on FIRMs: FIRM changes also occurred in this area between the time of Tropical Storm Irene and Superstorm Sandy. When Irene hit in late August 2011, the flood map in effect (09001C0438F) was dated June 18, 2010 and the site was in an AE11 flood zone. On July 8, 2013 the revised flood map in effect (09001C0438G) placed the site in a VE 13 flood zone. Fairfield was aware of the impending flood zone change to the site when Sandy hit in late October 2012.

Town of Fairfield contacts:

Jim Wendt, Asst. Planning Director & floodplain administrator, (203) 256-3050, jwendt@fairfieldct.org
Joseph Michelangelo, Director of Public Works, (203) 256-3010, jmichelangelo@fairfieldct.org
Kevin Chamberlain, DeStefano & Chamberlain, (203) 254-7131, kevin@dcstructural.com

Thank you in advance for your attention and assistance in this matter.

Sincerely,



Diane Ifkovic
State NFIP Coordinator
CTDEEP

Sincerely,



Dana Conover
Public Assistance Coordinator
CTDESPP/DEMHS

Attachments

Cc: J. McDonough