



# Oregon

John A. Kitzhaber, MD, Governor

**Military Department**  
Office of Emergency Management  
PO Box 14370  
Salem, OR 97309-5062  
Phone: (503) 378-2911  
Fax: (503) 373-7833  
TTY: (503) 373-7857

January 24, 2012

Ms. Michele Bradley  
Port Manager  
Port of Tillamook Bay  
4000 Blimp Boulevard  
Tillamook, OR 97141

RE: Disaster No.: 1733-DR-OR  
First Appeal – Port of Tillamook Bay (the Port or POTB)  
PW NO.: Alternate Project #13 to Project Worksheet (PW) 936

Dear Ms. Bradley,

Enclosed please find the Deputy Regional Administrator of the Federal Emergency Management Agency, Region Ten's determination to the Port of Tillamook Bay's appeal for the above referenced PW. The appeal has been denied for the reasons noted in the enclosure.

Pursuant to 44 CFR, § 206.206, a second appeal may be made if the Regional Administrator denies the first appeal. The Port may submit a second appeal in writing to the Assistant Administrator, Disaster Assistance Directorate, FEMA Headquarters.

The second appeal must be submitted to Oregon Emergency Management within 60 days of the receipt of this letter. If the Port chooses to appeal, the second appeal must contain the following justifications: 1) supporting its position, 2) specifying the monetary figure in dispute, and 3) the provisions in Federal law, regulation, or policy with which the Port believes the initial action was inconsistent. Upon receipt of the second appeal from the Port, the State will review the material submitted, and within 60 days of receipt will forward the appeal through FEMA, Region Ten, to FEMA's Assistant Administrator, Disaster Assistance Directorate in Headquarters. Within 90 days following receipt of the appeal or requested information, the Assistant Administrator, Disaster Assistance Directorate, will notify the State of the disposition of the appeal. The decision made by the Administrator, Disaster Assistance Directorate is final.



Ms. Michele Bradley  
RE: Disaster No.: 1733-DR-OR, First Appeal – Port of Tillamook Bay  
January 24, 2012: Page Two

To reiterate, enclosed is the first appeal analysis and letter of notification from FEMA's Deputy Regional Administrator.

Sincerely,

A handwritten signature in blue ink, appearing to read "David A. Stuckey", with a long horizontal flourish extending to the right.

David A Stuckey  
Deputy Director

DAS/js/crc  
Enclosures



**FEMA**

JAN 13 2012

Mr. David Stuckey  
Deputy Director  
Oregon Emergency Management  
PO Box 14370  
Salem, Oregon 97309-5062

Subject: First Appeal – Port of Tillamook Bay –Alternate Project  
FEMA DR-1733-OR; Alternate Project #13 to Project Worksheet (PW) 936

Dear Mr. Stuckey:

This is in response to your June 8, 2011, submittal to the U. S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) of the Port of Tillamook Bay's (applicant) request for reconsideration of an ineligible determination for proposed Alternate Project #13 under PW 936.

The applicant's appeal is denied. The analysis is enclosed. Please inform the applicant of this determination.

The applicant may appeal my decision to the Assistant Administrator, Recovery Directorate, FEMA Headquarters. If the applicant chooses to appeal, the appeal must contain justification: 1) supporting its position, 2) specifying the monetary figure in dispute, and 3) citing the provisions in Federal law, regulation, or policy with which the applicant believes that initial action was inconsistent. A final appeal must be submitted to your office within 60 days of the applicant's receipt of this determination. Subsequent to that, your evaluation of the appeal is required to be submitted through my office to FEMA's Assistant Administrator, Recovery Directorate, within 60 days after you receive the appeal.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Loper".

Sharon Loper  
Deputy Regional Administrator

Enclosure

FIRST APPEAL ANALYSIS  
Applicant: Port of Tillamook Bay  
Project: Alternate Project #13 to PW936v1  
FEMA-1733-DR-OR

**BACKGROUND**

Flooding during December 1-17, 2007, severely damaged the Port of Tillamook Bay's (applicant) historic railroad. The applicant determined that restoring the railroad facilities to their pre-disaster condition would not best serve the public welfare and requested a series of alternate projects in lieu of the railroad repairs, including Alternate Project #13. The proposed Alternate Project #13 is a mitigation project designed to reduce flood elevations in the project area and restore salt marsh and natural river processes by removing approximately 36,000 linear feet of existing levees and associated fill, lowering approximately 11,000 linear feet of existing levees, constructing 9,600 linear feet of tidal dike, installing ten concrete culverts with tidegates and constructing a spillway structure. The estimated project cost is approximately \$8,000,000, of which approximately \$3,225,000 is requested from FEMA.

As a mitigation project, an alternate project proposed under the Public Assistance (PA) Program must first meet the PA Program requirements, and then meet the requirements for funding through FEMA's Hazard Mitigation Grant Program (HMGP) in accordance with Response and Recovery Directorate Policy 9525.13, Alternate Projects, dated July 31, 2001, the policy in effect upon the date of the disaster declaration.

On January 13, 2011, the applicant submitted a request for an eligibility determination for Alternate Project #13. On March 16, 2011, FEMA determined that the project was ineligible for PA funding due to three eligibility criteria: 1) Failure to clearly demonstrate that the project was cost-effective; 2) The project does not solve the threat independently or constitute a functional portion of a solution to the threat; and 3) The project does not include sufficient assurances to long-term and ongoing maintenance, repairs, and operations.

The applicant appealed this determination on June 6, 2011. More information was requested of FEMA, which was provided by the applicant on September 6, 2011. The applicant provided information and discussion related to these three requirements, including discussion on the modeling for the benefit-cost analysis and damage impacts, and assurances to fund the entire project and fund the long-term maintenance and repairs.

**DISCUSSION**

This proposed alternate project is being submitted as a mitigation project, requiring it to meet PA's eligibility criteria, and the eligibility of a mitigation project under the Hazard Mitigation Grant Program (44 CFR Part 206.434), per PA's Alternate Project policy. Following is discussion related to the revised benefit-cost analysis and the cost-effectiveness of this proposed project.

**Cost-Effectiveness.** Mitigation projects funded by FEMA must “Be cost-effective and substantially reduce the risk of future damage, hardship, loss, or suffering resulting from a major disaster.” (44 CFR Part 206.434) These are direct benefits derived from putting in place hazard mitigation measures. On September 6, 2011, the applicant provided a revised benefit-cost analysis (BCA) with a benefit-cost ratio of 1.14. The inclusion of agricultural losses avoided in the applicant’s benefit-cost analysis cannot be validated by FEMA Region X.

The May 2011, revised benefit-cost analysis states on page 10, “There was no data available to directly validate the agricultural loss estimates within HAZUS.” The applicant nonetheless stresses the significance of agricultural losses, citing the November 1996 ‘Tillamook County, Oregon 1996 Flood Damage and Recovery Plan’ estimate of \$9,200,800 in agricultural damages for all of Tillamook County. The applicant uses the examples of hundreds of cows drowned in Tillamook’s 1996 flood, as well as the loss of agricultural inventory such as milk. However, a project to reduce flood levels by zero to eighteen inches will not substantially reduce flood hazards to milk parlors, milk tanks, or the risk of cows drowning.

The HAZUS model includes the following assumptions for the ratio of agricultural-related damages to the total pre-mitigation flood costs: Agricultural Buildings damage costs ratio was 38 percent; Agricultural Building Contents was 40 percent; and Agricultural Inventory was assigned a 56 percent ratio for use in the HAZUS model. FEMA cannot accept the assumption that this level of significant agricultural costs will be incurred or mitigated when there is no actual historical data available.

## **CONCLUSION**

The applicant has not provided sufficient data and information for FEMA to confirm the FEMA Public Assistance Program eligibility of this proposed project as being cost-effective.

## **FINDING**

The applicant’s appeal is denied.