



**FEMA**

November 27, 2012

Jeb Spaulding  
Governor's Authorized Representative  
Secretary of Administration  
109 State Street  
Montpelier, VT 05609-0201

Re: *Permanent Relocation, Brooks and Annex Buildings, Agricultural Laboratory, Boiler House, and Sewer Pump Station, FEMA-4022-DR*

Dear Secretary Spaulding:

The Federal Emergency Management Agency (FEMA) and the State of Vermont have had numerous discussions concerning whether FEMA will require the permanent relocation of the Brooks and Annex Buildings, Agricultural Laboratory, Boiler House, and Sewer Pump Station at the Waterbury State Office Complex (WSOC). For the past 15 months, FEMA has continued to gather information from the State in order to evaluate whether or not any of these or other facilities meet the regulatory requirements for permanent relocation under 44 C.F.R. § 206.226(g). Following my evaluation of this information, I have determined that none of the facilities were destroyed and that the facilities are not and will not be subject to heavy repetitive damage. Therefore, I am not requiring and not approving funding for the permanent relocation of the Brooks and Annex Buildings, Agricultural Laboratory, Boiler House, Sewer Pump Station, or any other building at the WSOC under major disaster declaration FEMA-4022-DR.

## **I. Background**

The WSOC, located in the Village of Waterbury and bounded by the Winooski River, houses numerous state agencies and supporting functions in 47 buildings across a 117-acre campus. Tropical Storm Irene impacted the State of Vermont from August 27 to September 2, 2011, and the storm's high winds and heavy rains caused the Winooski River to overtop its banks and flood various facilities at WSOC. The President declared a major disaster (FEMA-4022-DR) for the State of Vermont as a result of Tropical Storm Irene on September 1, 2011. The declaration and its subsequent amendments authorized, *inter alia*, Public Assistance for all counties in Vermont. Tropical Storm Irene damaged various facilities at the WSOC that are owned and operated by the State, including the Brooks and Annex Buildings, Agricultural Laboratory, Boiler House, and Sewer Pump Station.

The Brooks and Annex Buildings comprise the Vermont State Hospital (VSH). The VSH is a 54-bed acute care facility which was housing 52 patients at the time Tropical Storm Irene struck the facility. VSH served patients on both short term and a long-term basis. Short-term patients

include individuals who are experiencing acute psychotic episodes and criminal defendants referred to the hospital for psychiatric evaluation of sanity and/or competency to stand trial. Longer-term patients include patients with a chronic mental illness who continue to be too actively psychotic to be integrated in the community, and patients whose mental disorders and physical handicaps require a higher or more specialized level of care than is available in the community.

The Brooks Building functioned as the main patient care section of the hospital system, and included patient rooms (54 patients), offices, storage areas, conference areas, kitchen, workstations, and support. During Tropical Storm Irene, the Brooks Building was inundated with floodwaters to a height of 7.43' above finished ground floor. Damages included interior/exterior finishes, elevator, electrical, HVAC, and plumbing systems.

The Annex Building functioned as the main patient intake and admissions center of the hospital system, and included offices, storage areas, conference areas, and workstations. During Tropical Storm Irene, the Annex Building was inundated with floodwater to a height of 5.99' above finished ground floor. There were damages to the interior/exterior finishes, electrical, HVAC, and plumbing systems.

The Sewer Pump Station is a raw sewage pumping station connected to WSOC gravity sanitary sewer system. The small diameter force main pipe at the Sewer Pump Station pumps sewage to an intermediate station at the I-89 underpass, and this intermediate station pumps the sewage to the Waterbury wastewater treatment plant. During Tropical Storm Irene, the Sewage Pump Station was inundated with water to a high of 2.0' above finished floor. The damages to the facility included interior and exterior finishes and electrical equipment.

The Boiler House is the structural enclosure for the WSOC's heat and hot water boilers. The building was inundated with floodwaters to a height of 5.48' above finished ground floor level. The damages to the building included interior/exterior finishes, building systems, doors, boiler operator office, dock leveler, and assorted minor damaged elements.

The Agricultural Laboratory is a laboratory for the Vermont Agency of Agriculture (Division of Food Safety and Consumer Protection) and the Vermont Department of Environmental Conservation. During Tropical Storm Irene, the building was inundated to a height of 2.83' above finished ground floor. There were damages to the floors, walls, electrical equipment, HVAC components, cabinetry, and elevator.

## **II. Discussion**

### **A. Overview of Permanent Relocation – 44 C.F.R. § 206.226(g)**

Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act authorizes FEMA to provide financial assistance to a state or local government and certain non-profit organizations for the restoration of an eligible facility that was damaged or destroyed by a major disaster.<sup>1</sup> FEMA divides "restoration" into two categories: repair and replacement. FEMA's

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<sup>1</sup> Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, § 406 (1974) (codified as amended at 42 U.S.C. § 5172) [Stafford Act].

regulation at 44 C.F.R. § 206.226(f) provides that a facility is considered repairable when (1) disaster damages do not exceed 50 percent of the cost of replacing a facility to its predisaster condition, and (2) it is feasible to repair the facility so that it can perform the function for which it was being used as well as it did immediately prior to the disaster.<sup>2</sup>

FEMA's relocation regulation at 44 C.F.R. § 206.226(g) provides the Regional Administrator with the authority to approve funding for and require restoration of a *destroyed* facility at a new location when: (1) the facility is and will be subject to repetitive heavy damage; (2) the approval is not barred by other provisions of Title 44 of the Code of Federal Regulations; and (3) the overall project, including all costs, is cost effective.<sup>3</sup> FEMA generally considers a facility as "destroyed" if the facility qualifies for replacement assistance under 44 C.F.R. § 206.226(f).

### **B. The Brooks and Annex Buildings, Agricultural Laboratory, Boiler House, and Sewer Pump Station Are Not Destroyed**

The first requirement for permanent relocation under 44 C.F.R. § 206.226(g) is that a facility must be "destroyed." Here, I have determined that the Brooks and Annex Buildings, Agricultural Laboratory, and Sewer Pump Station are not destroyed.

FEMA prepared and finalized Project Worksheet 3169 to document the scope of work to repair disaster-related damages to the Brooks Building.<sup>4</sup> Under this Project Worksheet, FEMA determined that the cost of repairing disaster damage only and the cost associated with codes and standards upgrades that apply to the repair of the damaged elements only total \$775,790. FEMA also determined that the cost to replace the Brooks Building on the basis of its pre-disaster design and in accordance with applicable codes and standards is \$8,933,875. Because the cost to repair disaster damages to the Brooks Building does not exceed 50% of the replacement cost of the facility, the building is not eligible for replacement and, therefore, not destroyed.

FEMA prepared and finalized Project Worksheet 3124 to document the scope of work to repair disaster-related damages to the Annex Building.<sup>5</sup> Under this Project Worksheet, FEMA determined that the cost of repairing disaster damage only and the cost associated with codes and standards upgrades that apply to the repair of the damaged elements only total \$127,964. FEMA also determined that the cost to replace the Annex Building on the basis of its pre-disaster design and in accordance with applicable codes and standards is \$2,278,704.57. Because cost to repair disaster damages to the Annex Building does not exceed 50% of the replacement cost of the facility, the building is not eligible for replacement and, therefore, not destroyed.

FEMA prepared and finalized Project Worksheet 3237 to document the scope of work to repair disaster-related damages to the Agricultural Lab.<sup>6</sup> Under this Project Worksheet, FEMA determined that the cost of repairing disaster damage only and the cost associated with codes and

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<sup>2</sup> 44 C.F.R. § 206.226(f); see also FEMA Disaster Assistance Policy No. 9524.4, *Repair vs. Replacement of a Facility under 44 C.F.R. § 206.226(f) (The 50 Percent Rule)* (Mar. 25, 2009).

<sup>3</sup> 44 C.F.R. § 206.226(g).

<sup>4</sup> PA-01-VT-4022-PW-03169(0) (**Enclosure 1**).

<sup>5</sup> PA-01-VT-4022-PW-03124(0) (**Enclosure 2**).

<sup>6</sup> PA-01-VT-4022-PW-03237(0) (**Enclosure 3**).

standards upgrades that apply to the repair of the damaged elements only total \$1,453,594.45. FEMA also determined that the cost to replace the Agricultural Laboratory on the basis of its pre-disaster design and in accordance with applicable codes and standards is \$6,775,551.00. Because the cost to repair disaster damages to the Agricultural Laboratory does not exceed 50% of the replacement cost of the facility, the building is not eligible for replacement and, therefore, not destroyed.

FEMA prepared and finalized Project Worksheet 3263 to document the scope of work to repair disaster-related damages to the Boiler House.<sup>7</sup> Under this Project Worksheet, FEMA determined that the cost of repairing disaster damage only and the cost associated with codes and standards upgrades that apply to the repair of the damaged elements only total \$119,250. FEMA also determined that the cost to replace the Boiler House on the basis of its pre-disaster design and in accordance with applicable codes and standards is \$3,598,060. Because the cost to repair disaster damages to the Boiler House does not exceed 50% of the replacement cost of the facility, the building is not eligible for replacement and, therefore, not destroyed.

FEMA prepared and finalized Project Worksheet 3239 to document the scope of work to repair disaster-related damages to the Sewer Pump Station.<sup>8</sup> Under this Project Worksheet, FEMA determined that the cost of repairing disaster damage only and the cost associated with codes and standards upgrades that apply to the repair of the damaged elements only total \$4,348.15. FEMA also determined that the cost to replace the Sewer Pump Station on the basis of its pre-disaster design and in accordance with applicable codes and standards is \$129,520.91. Because the cost to repair disaster damages to the Sewer Pump Station does not exceed 50% of the replacement cost of the facility, the building is not eligible for replacement and, therefore, not destroyed.

**C. The Brooks and Annex Buildings, Agricultural Laboratory, Boiler House, and Sewer Pump Station Are Not and Will Not Be Subject to Repetitive Heavy Damage**

The second requirement for permanent relocation under 44 C.F.R. § 206.226(g) is that a facility is and will be subject to repetitive heavy damage. Here, I have determined that Brooks and Annex Buildings, Agricultural Laboratory, Boiler House, and Sewer Pump Station are not or will not be subject to heavy and repetitive damage.

The State has not provided any historical information demonstrating the frequency or magnitude of past flooding. For example, the State has not provided detailed information identifying the dates of past flooding, the damage to these facilities during those flooding events, the cost to repair that damage, the insurance settlements in these past flooding events, and whether a cognizant official determined that any of the facilities sustained substantial damage under these past flooding events. Several state staff have commented anecdotally about past flooding, but the State has not brought forth any evidence supporting this anecdotal information.

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<sup>7</sup> PA-01-VT-4022-PW-03263(0) (Enclosure 4).

<sup>8</sup> PA-01-VT-4022-PW-03239(0) (Enclosure 5).

The draft Flood Insurance Rate Map (FIRM) for Washington County (dated June 22, 2009), was authorized for use by FEMA on September 19, 2012, and does establish that the Brooks and Annex Buildings and Agricultural Laboratory and Boiler House are within the 100-year floodplain boundary. However, such a location does not demonstrate that a facility is and will be subject to repetitive damage, only that each location is within the 100-year floodplain and subject to a 1% risk of flooding each year. With respect to the Sewer Pump Station, the draft FIRM establishes that a portion of this facility is located in the floodway. This location does not by itself establish that the facility is and will be subject to repetitive damage.

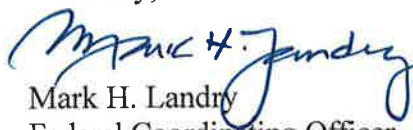
#### **D. Cost Effectiveness**

The third requirement for permanent relocation under 44 C.F.R. § 206.226(g) is that the overall relocation project, including all costs, is cost effective. A permanent relocation project is cost effective when the cost of permanent relocation is less than the cost to repair the facility at its current location. When the cost to relocate a facility is greater than the cost to repair the facility in its original location, cost effectiveness is determined by comparing the increased cost of relocation to the benefits derived from relocating the facility.<sup>9</sup> Because the Brooks and Annex Buildings, Agricultural Laboratory, Boiler House, and Sewer Pump Station were not destroyed and are not and will not be subject to heavy repetitive damage, I have not evaluated whether the relocation of each facility would be cost effective.

#### **III. Conclusion**

I have determined that the Brooks and Annex Buildings, Agricultural Laboratory, Boiler House, Sewer Pump Station, and all other buildings at the WSOC were not destroyed and are not and will not be subject to heavy repetitive damage. Therefore, I am not requiring and not approving funding for the permanent relocation of any building at the WSOC under major disaster declaration FEMA-4022-DR. You may appeal my determination within sixty days of receipt of this letter pursuant to 44 C.F.R. § 206.206.

Sincerely,



Mark H. Landry  
Federal Coordinating Officer  
FEMA-4022-DR-VT

#### Enclosures:

- (1) PA-01-VT-4022-PW-03169(0)
- (2) PA-01-VT-4022-PW-03124(0)
- (3) PA-01-VT-4022-PW-03237(0)
- (4) PA-01-VT-4022-PW-03263(0)
- (5) PA-01-VT-4022-PW-03239(0)

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<sup>9</sup> FEMA Recovery Fact Sheet No. 9580.102, *Permanent Relocation*, ¶ 9 (Apr. 14, 2010).