

AR, Tab 20, at 4-18 to 4-19.

⁹In addition to Newport's proposed pier, the EA noted some potential that Newport's proposed buildings containing office and warehouse space might be constructed below the BFE.

¹⁰In contrast to Newport's failure to provide any meaningful information regarding the apparent location of Newport's proposed pier within the designated floodplain area, Newport's response did address the other structures on its proposed site.

¹¹Despite the agency's purported reliance on Newport's conclusory representation, the contracting officer expressly acknowledges that Newport's response provided no meaningful information regarding the location of its pier, summarizing Newport's response as follows:

The Port of Newport provided a response [to the floodplain discussion question] with its FRP that included a statement an[d] analysis dated May 22, 2009, by a professional engineer with KPFF Engineering, that except for the pier, Newport's proposed site was not in a 100-year or base floodplain. [Bold added.]

AR, Tab 1, Contracting Officer's Statement, at 10.

¹²Specifically, EO No. 11988 states:

[I]n order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development whenever there is a practicable alternative, it is hereby ordered as follows:

(1) Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain. . .

(2) If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in this Order requiring siting in a floodplain, the agency shall, prior to taking action, (i) design or modify its action in order to minimize potential harm to or within the floodplain, consistent with regulations issued in accord with Section 2(d) of this Order, and (ii) prepare and circulate a notice containing an explanation of why the action is proposed to be located in the floodplain.

Protesters Comments on Agency Report, exh. 1, at 1-2.

¹³In this regard, in defending against this protest, the contracting officer has stated: "Pier structures are essential to meet the operational requirements of the Marine Operations Center-Pacific." AR, Tab 1, at 11.

¹⁴As noted above, in addition to concluding that the pier would "likely be impacted by flooding," the EA stated that the pier could potentially affect the area "by trapping debris against the piles of the dock and/or altering the way in which floodwaters circulate/flow within the bay." AR, Tab 20, at 5-96.

¹⁵As the agency points out, there can be no question as to the qualifications of the personnel that prepared the EA. Specifically, as described by the agency, the EA "was performed by personnel from various technical disciplines including, but not limited to, those with background in port, engineering, environmental planning, water resources, wetlands, geology, and marine species and habitats." AR, Tab 2, at 15.

¹⁶Indeed, as summarized by the contracting officer, Newport's response to the agency's discussion question regarding the floodplain matter addressed all of Newport's proposed site "except for the pier." AR, Tab 1, at 9.

¹⁷Although not specifically addressed by the parties, we note that FEMA has discussed this issue in connection with the National Flood Insurance Program (NFIP). In a booklet titled "Answer to Questions About the NFIP," FEMA has stated:

75. Does elevating a structure on posts or pilings remove a building from the Special Flood Hazard Area (SFHA)?

Elevating a structure on posts or pilings does not remove a building from the SFHA. If the ground supporting posts or pilings is within a floodplain, the building is still at risk. The structure is considered to be within the floodplain, and flood insurance will be required as a condition of receipt of Federal or Federally related financing for the structure. The reason for this, even in cases where the flood velocity is minimal, is that the hydrostatic effects of flooding can lead to the failure of the structure's posts or pilings foundation. The effects of ground saturation can lead to decreased load bearing capacity of the soil supporting the posts or pilings, which can lead to partial or full collapse of the structure. Even small areas of ponding will be subject to the hydrodynamic effects of flooding; no pond or lake is completely free of water movement or wave action. This movement of water can erode the ground around the posts or pilings and may eventually cause collapse of the structure.

FEMA Internet Website at www.fema.gov/business/nfip/fidmanre.shtm.

¹⁸In defending against this matter, the agency has requested that we dismiss Bellingham's protest for various reasons, including the agency's assertions that it was legally precluded from awarding the lease to Bellingham due to Bellingham's price and/or that Bellingham's proposal should be similarly viewed as offering a structure within a designated floodplain area. We have declined to dismiss the protest based on the agency's post-protest assertions, since it is not clear that, during the acquisition process, the agency considered either of these matters as a mandate for rejecting Bellingham's proposal. While these matters may be proper considerations by the agency in determining if there are practicable alternatives, in the context of the agency's dismissal requests we view the agency's post-protest assertions as being made "in the heat of litigation," and we will not rely on them as bases for dismissing the protest. See Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 ¶ 91 at 15.

TRIBUTE TO REV. SAMUEL R. HARDMAN, SR.

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 18, 2011

Mr. BONNER. Mr. Speaker, I rise to pay tribute to a patriotic American who loved his country and loved the Lord, and dedicated his life to the service of both.

The Rev. Samuel R. Hardman, Sr. passed away on February 10, 2011, at the age of 85. A native of Zephyrhills, Florida, he was a lifelong resident of Magnolia Springs, Alabama.

To anyone who knew Father Sam, it was clear he was passionate about America. At the young age of 17, as the world was embroiled in the Second World War, he eagerly enlisted in the U.S. Navy. He was commissioned a bomb disposal officer at age 19 and served in the South Pacific as the United States battled the Empire of Japan.

After the war, he returned home to attend the Episcopal Seminary in Sewanee, Tennessee, and was ordained a priest in 1950.

With one war behind him, many would have chosen the more comfortable road of civilian life. Yet, Father Sam elected to take a different path. He chose to serve the Lord while at the same time serving his country. He returned to the Navy as a Chaplain, taking him to battlefronts in Korea and Vietnam. Much of his time in uniform was in the service of the U.S. Marine Corps.

Father Sam retired from the Navy as a Captain in 1975 and moved to Magnolia Springs where he served in the Diocese of the Central Gulf Coast for the next 32 years.

Mr. Speaker, Father Sam's uncommon devotion to America and his faith make him a very special man. However, he is all the more special to me as he presided over the marriage ceremony when my wife, Janee, and I were wed on August 15, 1990. We will be forever grateful for his spiritual and fatherly role in our lives and in the lives of countless others who have been parishioners of St. Paul's Episcopal Church in Mobile.

On behalf of all the people who have been touched by Father Sam's life, I wish to extend condolences to his family, including his sons, William, and Samuel, Jr.; sisters, Alfea Thomas, and Mary Lee; 9 grandchildren; 9 great grandchildren, and a host of nieces and nephews and other relatives. You are all in our thoughts and prayers.

THE THIRD TIME IS AS GOOD AS THE FIRST

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 18, 2011

Mr. COBLE. Mr. Speaker, I am sure that fans across the country will have their own opinion, but for my money, I have to say that the best high school football team in the country resides in the Sixth District of North Carolina. I have some facts to back up my opinion.

West Rowan High School owns the nation's longest active football winning streak among all high schools. The Falcons won their 46th consecutive game while capturing their third straight North Carolina 3-A high school football championship. West Rowan's last loss was in Week 2 of the 2008 football season.

The Falcons completed their third straight season of perfection on December 11, 2010, when they defeated Eastern Alamance 34-7 at N.C. State's Carter-Finley Stadium. I must also note that the Sixth District was a double winner in this game because the Eastern Alamance Eagles proved to be a worthy opponent. Eastern Alamance also resides in the Sixth District. So, congratulations to the Falcons and the Eagles for a tremendous 2010 football season.

The way that West Rowan captured this title was special because of the obstacles that had to be overcome in the title bout. It has long been said that defense wins championships and the Falcons are a prime example of this philosophy. In the title game, the star quarterback for the Falcons was knocked out of the game with a concussion requiring a full team effort to capture the state crown. West Rowan and Eastern Alamance battled in a great