



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND  
1333 ISAAC HULL AVENUE  
WASHINGTON NAVY YARD DC 20376-2701

IN REPLY REFER TO

5090  
Ser 333/105  
30 Sept 2009

Texas Parks & Wildlife Department

Rich McMonagle, Director, Infrastructure Division  
4200 Smith School Road  
Austin, Texas 78744-3291

Dear Mr. McMonagle:

This letter serves to provide you with a comprehensive written explanation of the federal environmental laws that must be complied with before the Texas Parks & Wildlife Department (TPWD) can make any definite decisions regarding the proposed dry-berthing project for the Battleship Texas. The proposed dry-berthing project triggers two environmental laws: Section 106 of the National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA).

Section 106 of the NHPA, and its implementing regulations at 36 C.F.R. Part 800, requires federal agencies to take into account the effects of their undertakings on historic properties and afford the Council (referring to the Advisory Council on Historic Preservation) a reasonable opportunity to comment on the undertaking. The effects of the proposed dry-berthing are considered through a consultation process which should include all federal agencies with an interest in the Battleship Texas, the appropriate State Historic Preservation Officer (SHPO), and other consulting parties that have an interest in the vessel. This process should begin in the early planning stages of the proposed action and must be completed before any federal funds can be expended. The proposed dry-berthing project is a federal undertaking because; 1) P. L. 649 of the 79<sup>th</sup> Congress governs the transfer of this vessel to the State of Texas and stipulates that the State is required to maintain the vessel in a condition that is satisfactory to the Navy. This statement authorizes a federal agency (Navy) to approve any proposed modifications to the vessel; and 2) the Battleship Texas Foundation (BTF) received funding through a federal grant and has agreed to give TPWD the funding for use towards the proposed dry-berthing project.

The proposed dry-berthing project also triggers NEPA, 42 U.S.C. §4321 and its implementing regulations at 40 C.F.R. Parts 1500-1508. NEPA requires a detailed statement on the environmental impact of major federal actions that significantly affect the environment. The proposed dry-berthing project is a major federal action because it is partly financed by the federal government

and the project requires the approval of the Navy. The NEPA document must assess all reasonable alternatives to the proposed action to avoid or minimize any adverse environmental effects. While NEPA does not force the action proponent to choose a specific alternative, it does require that the action proponent make a decision after it has taken a "hard look" at all alternatives. ~~With regard to the proposed dry-berthing project,~~ this "hard look" includes assessing alternative dry-berthing designs in addition to assessing alternative locations for the vessel.

Should you need any further explanation about the aforementioned environmental laws or your role in complying with these laws, please contact Ms. Elizabeth Freese at (202) 781-4423 or Elizabeth.Freese@navy.mil.

Sincerely,



C.R. Pietras  
CAPT USN  
Program Manager  
Navy Inactive Ships Program (PMS 333)