



U.S. Department of the Interior Office of Inspector General



The ungrated openings in the uncompleted Frederiksted pier posed a safety hazard for those who used it. (Photo Courtesy of St. Croix Source - stx.onepaper.com)

Fish and Wildlife Grants for Boating Access Facilities, Government of the Virgin Islands

Report No. V-IN-VIS-0078-2004

August 2005



United States Department of the Interior

Office of Inspector General
Western Region
Federal Building
2800 Cottage Way, Suite E-2712
Sacramento, California 95825

August 19, 2005

Honorable Charles W. Turnbull
Governor of the Virgin Islands
No. 21 Kongens Gade
Charlotte Amalie, VI 00802

Mr. Sam Hamilton
Regional Director
U.S. Fish and Wildlife Service
1875 Century Boulevard – Suite 340
Atlanta, GA 30345

Subject: Final Audit Report “Fish and Wildlife Grants for Boating Access Facilities,
Government of the Virgin Islands” (Report No. V-IN-VIS-0078-2004)

Dear Governor Turnbull and Mr. Hamilton:

The attached report presents the results of our audit of a U.S. Fish and Wildlife Service grant for boating access facilities at Frederiksted, St. Croix. The objective of our audit was to determine whether the grant was used in accordance with applicable laws and regulations.

The legislation, as amended, creating the Office of Inspector General requires that we report to Congress semiannually on all audit reports issued, the monetary effect of audit findings, actions taken to implement our audit recommendations, and recommendations that have not been implemented. Please see Appendix 1 for the monetary effect of the findings in this report.

Please provide a response to this report by September 20, 2005. The response should provide the information requested in Appendix 3 and should be sent to the Western Region Office at the above address, with a copy to the Caribbean Field Office, Federal Building – Room 207, St. Thomas, VI 00802.

Sincerely,



Michael P. Colombo
Regional Audit Manager

Attachment

cc: Chief of Federal Assistance, U.S. Fish and Wildlife Service
Audit Liaison Officer, U.S. Fish and Wildlife Service
Commissioner, Department of Planning and Natural Resources

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INTRODUCTION

BACKGROUND

The Frederiksted Fisherman's Pier (Pier) on St. Croix was extensively damaged following Hurricane Georges in 1998. The U.S. Fish and Wildlife Service (FWS) funded rebuilding the boating access facility to pre-hurricane condition through a Sport Fish Restoration Program grant of \$558,000 awarded in August 1999 to the V.I. Department of Planning and Natural Resources (DPNR), Fish and Wildlife Division. Of the total grant amount, \$313,700 was initially allocated for the Pier, with the remaining \$244,300 allocated for boating access projects on St. Thomas and St. John.¹

In March 2001, the V.I. Department of Property and Procurement (DP&P) awarded a \$26,700 contract for architectural and design services to CAPE Associates (CAPE). In conjunction with FWS engineers, CAPE prepared plans and specifications for a structure that could withstand a Category 5 hurricane and have an extended life expectancy of 25 to 30 years, as required for the level of funding. In October 2002, DP&P awarded ALJ Construction (ALJ) a \$287,000 contract to rebuild the fisherman's pier. The project was originally scheduled to begin in October 2002 and be completed in February 2003.

The work covered by the construction contract included (1) removing the remaining old Pier structure; (2) constructing a new 80-foot-long and 10-foot-wide Pier; (3) removing two existing reinforced concrete ramps; (4) constructing new concrete ramps encompassing both sides of the Pier; (5) repairing an existing concrete abutment; and (6) adding two light poles, signage, and buoys.

SCOPE AND PRIOR AUDIT COVERAGE

The scope of the audit included construction activities and use of grant funds during fiscal years 2001 to 2004 related to the Pier project. Our scope was limited in that some DP&P project-related records were part of an ongoing investigation and could not be made available to us. We were therefore unable to completely determine whether procurement laws and regulations were followed.

¹ In April 2005, FWS officials told us that the grantee could transfer funds between grant projects, up to a maximum of 10 percent of the grant amount, without prior approval. But FWS would not reimburse the Virgin Islands for any costs over the total \$558,000 grant amount.

To accomplish our audit objective, we interviewed officials of DPNR, DP&P, and the Department of Public Works (DPW) and reviewed correspondence, grant award documents, contracts, change orders, completion estimates, and payment records at these departments. We also reviewed related personnel records at the Division of Personnel and visited the Pier in October 2004.

Our audit was conducted in accordance with the “Government Auditing Standards,” issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. As part of our audit, we evaluated the internal controls related to construction activities and use of grant funds to the extent we considered necessary to accomplish the audit objective. Internal control weaknesses identified in these areas are discussed in the Results of Audit section of this report. The recommendations, if implemented, should improve the internal controls in these areas.

Neither the Department of the Interior’s Office of Inspector General nor the Office of the Virgin Islands Inspector General has performed any prior audits of grants for boating access facility projects in the Virgin Islands.

RESULTS OF AUDIT

OVERVIEW

Despite efforts by officials of the Government of the Virgin Islands (GVI), ALJ did not satisfactorily rebuild the Pier. ALJ's construction work was not acceptable, the project was not completed, and GVI incurred at least \$20,028 in additional project management costs because of construction delays. We also noted that GVI did not assess liquidated damages of at least \$30,600 against ALJ for unauthorized construction delays or ensure the project site was properly secured. As a result, the general public and commercial fishermen on St. Croix were deprived of badly needed boating access that was to be provided by the new Pier, and the safety of potential users was put at risk by unsafe conditions at the construction site. As of April 2005, GVI terminated the ALJ contract, filed a claim with ALJ's bonding company, and hired a new contractor to complete the project. FWS expected that GVI would satisfactorily complete the project by September 30, 2005, or repay grant funds.

CONSTRUCTION PROBLEMS

ALJ Construction Work Was Not Acceptable

ALJ was the lowest of three bidders, but did not have marine construction experience. In contrast, the two unsuccessful bidders had such experience, and one of them had previously repaired the Pier. Although GVI required ALJ to hire qualified subcontractors for the marine portion of the work, ALJ did not do so. ALJ completed construction of the Pier's basic structure, but failed to meet construction specifications on three separate attempts to pour the concrete boat ramps on the north and south sides of the Pier, as follows:

- The first attempt on July 1, 2003, was aborted after DPNR told ALJ to stop work because of delays in applying a critical anti-washout additive to the concrete mix and unfavorable sea conditions. However, ALJ continued to pour concrete for the South ramp. A DPNR representative inspecting the site on July 17, 2003, found deficiencies, including large washouts that exposed the structure's reinforcing steel rods. An independent DPNR consultant concluded the North ramp was salvageable but the South ramp should be removed and rebuilt. In September 2003, FWS told the Commissioner of DPNR that changes to current specifications could result in the Pier no longer being eligible for funding under the Sport Fish Restoration Program.

- ALJ removed the underwater section of the South ramp in February 2004 and on March 9, 2004, attempted a second underwater pour. DPNR inspectors found that ALJ's work did not meet required specifications, with the result that washouts again occurred in the South ramp.
- A third and final pour to join the North and South ramps under the Pier occurred on April 3, 2004. A DPNR inspector found washouts, and a FWS engineer reported that work on the ramps did not meet project specifications.



Washouts in the new South ramp after the July 2003 concrete pour left the reinforcing steel exposed. (Photo Courtesy of the Department of Planning and Natural Resources)

GVI officials concluded that ALJ could not satisfactorily perform the work and on April 14, 2004, DPW advised ALJ not to do any further work on the ramps. Although DPW allowed ALJ to continue other project work, ALJ did not return to the worksite. DP&P terminated ALJ's contract in November 2004.

**Despite Extensions,
ALJ Did Not
Complete the Project**

As the owner agency for the Pier project, DPNR was responsible for initiating and completing the work within applicable time frames after receiving FWS approval of the grant. The grant period was originally August 1, 1999 to September 30, 2001. Because of construction delays, FWS approved four extensions, extending the grant period to September 30, 2005. GVI granted ALJ authorization to delay completion of the project by a total of 12 months (February 2003 to February 2004) without penalty. Even after these delays, however, ALJ did not complete the project. DP&P eventually contacted ALJ's bonding company, which agreed to finance completion of the project. As of April 2005, GVI had awarded a new contract for completion of the Pier to Zenon Construction, which was one of the original unsuccessful bidders.

**GVI Incurred
Additional Project
Management Costs of
\$20,028**

CAPE's contract for design and project management services, originally awarded in March 2001, was reinstated in October 2002, after ALJ was awarded the construction contract. Because of lengthy construction delays, GVI extended CAPE's project management contract three times, most recently in June 2004. CAPE was initially paid \$6,675 (\$1,669 per month) to administer the construction contract for 4 months (October 2002 to February 2003). Extension of the construction contract also extended the need for project management services, resulting in additional project management costs of \$20,028 from July 2003 to June 2004.

At the April 20, 2005 exit teleconference with FWS, officials stated that additional project costs would only be allowed to the extent that they fall within the scope and the \$558,000 total award amount of the grant for boating access facilities.

**GVI Did Not Assess
Liquidated Damages
of at Least \$30,600**

GVI did not assess liquidated damages against ALJ for all of the construction delays. The construction contract set damages for construction delays at \$100 per day to be deducted from ALJ's contract payments. However, instead of protecting the interests of GVI, FWS, and potential users of the Pier, GVI officials often took a supportive role with ALJ throughout the project period, giving the company numerous opportunities to satisfactorily perform under the contract. As of February 2004, GVI had paid ALJ more than \$213,000. The last approved project delay was through February 2004. Given that the project had not been completed as of December 31, 2004, GVI should have charged ALJ liquidated damages of \$100 per day for 306 calendar days (March 1 to December 31, 2004), for a total of \$30,600. This amount would have more than covered the additional \$20,028 in project management costs incurred because of ALJ's construction delays.

At the April 27, 2005 exit conference with DPNR, officials stated that DP&P was in the processes of working with ALJ's bonding company to determine the total amount, possibly including liquidated damages, that the bonding company would have to pay to GVI in compensation for ALJ's nonperformance under its contract.

**The Project Site Was
Not Properly Secured
and Was Unsafe for
Use**

From September 2003 to at least October 2004, the project site remained unsecured. Specifically, in September 2003, a fisherman reported to DPNR that several individuals had keys to the lock on the chained fence restricting access to the construction site and that commercial fishermen had intentionally cut the silt curtain to gain access to the uncompleted ramps. A DPNR official reported that he personally observed both vessels and trailers parked within the

construction site behind the chained-off restricted area. Later, the chain used to secure the site from vehicular access was no longer in place. During a site inspection in November 2003, ALJ and GVI officials observed the facility being used by the public to launch and retrieve vessels. The officials also reported that two fiberglass gratings used to cover openings on the Pier had been removed and were missing and that reinforcing steel bars had been untied and bent vertically to protrude dangerously out of the water.

In September and December 2003, DPNR reminded ALJ of its responsibility for securing the site until the project was completed, and directed ALJ to secure the site by December 8, 2003. ALJ responded through its attorney, who wrote to DPNR that ALJ had done everything within its power to avoid intrusions at the worksite by unauthorized persons. The attorney also stated that ALJ did not install the fiberglass gratings because incomplete work beneath the Pier might expose the gratings to damage.

During a site visit in October 2004, we observed the facility still being used by the public, although it was not yet completed. The lack of the fiberglass gratings to cover the Pier openings created a very dangerous condition for anyone attempting to use the Pier.

At the April 27 exit conference with DPNR, officials stated that they had initially tried to keep the construction site secured but had unofficially allowed local fishermen, who agreed to accept responsibility and liability in the event of injury, to use the uncompleted Pier and boating ramp. DPNR officials noted, however, that when the new contractor begins remedial work on the Pier, the worksite will again be secured from use until the work is completed.

GVI May Have to Repay FWS Grant Funds

In September 2003, FWS informed DPNR that any changes to the project specifications could result in the determination that the project was no longer eligible for funding under the Sport Fish Restoration Program. FWS site inspections in December 2003 and April 2004 confirmed that construction was not being completed according to specifications.

At the April 20 exit teleconference with FWS, officials stated that they would inspect the project and review cost information when the project was finished, and if they determined that the facility was not completed by the September 30, 2005 deadline or was not built in compliance with approved specifications, GVI would have to repay the grant funds.

At the April 27 exit conference with DPNR, officials stated that the new contractor commenced remedial work on the Pier on April 26 and expected to complete all work within 3 to 4 weeks.

RECOMMENDATIONS

TO THE FISH AND WILDLIFE SERVICE

We recommend that FWS:

1. Continue to coordinate with GVI to ensure adherence to the approved plan of action for completing the Pier project expeditiously and in accordance with specifications acceptable to FWS.
2. Continue to closely monitor the progress being made by GVI and its contractors to satisfactorily complete the project.
3. Require GVI to safeguard the construction site from access by unauthorized persons until construction work is completed and the Pier is certified as safe for public use.

TO THE GOVERNOR OF THE VIRGIN ISLANDS

We also recommend that the Governor of the Virgin Islands:

4. Require DP&P to assess and collect liquidated damages from ALJ or its bonding company for construction delays beyond February 2004, the last completion date extension approved through contract change orders.

FWS AND GVI RESPONSES

We received responses (Appendix 2) to the draft report from FWS and the Governor of the Virgin Islands. The May 24, 2005 response from FWS concurred with Recommendations 1, 2, and 3, and stated that FWS (1) approved revised plans and specifications for completion of the project, (2) was receiving periodic reports and photographs from GVI to document progress on the project, and (3) was advised by GVI that a fence was erected and a “No Trespassing” sign erected to limit access to the construction site.

The May 27, 2005 response from the Governor of the Virgin Islands provided additional information on corrective actions for Recommendations 1, 2, and 3, and indicated, regarding Recommendation 4, that the Commissioner of Property and Procurement had requested the Virgin Islands Attorney General to provide assistance with the recovery of liquidated damages estimated at \$42,500.

Based on the responses, we classified Recommendations 1, 2, and 4 as resolved, but not implemented, and Recommendation 3 as resolved and implemented (Appendix 3).

APPENDIX 1 – MONETARY IMPACT

<u>Finding Area</u>	<u>Funds to Be Put to Better Use</u>
Unassessed Liquidated Damages	<u>\$30,600</u>

Amount represents federal funds.

APPENDIX 2 - RESPONSE TO DRAFT REPORT



United States Department of the Interior

FISH AND WILDLIFE SERVICE
1875 Century Boulevard, Suite 340
Atlanta, Georgia 30345

In Reply Refer to:
FWS/R4/MS-FA

MAY 24 2005

Michael P. Colombo
Regional Audit Manager
United States Department of the Interior
Office of Inspector General
Western Region
Federal Building
2800 Cottage Way, Suite E-2712
Sacramento, California 95825

Dear Mr. Colombo:

Enclosed are our comments on the Draft Audit Report, "Fish and Wildlife Grants for Boating Access Facilities, Government of the Virgin Islands," (Assignment No. V-IN-VIS-0078-2004) which was prepared by your staff.

If you have any questions please call Mr. Michael Piccirilli, Chief - Federal Assistance at 404-679-4159.

Sincerely yours,

for /s/ Cynthia K. Dohner
Sam D. Hamilton
Regional Director

Enclosures

Comments on Draft Audit Report “Fish and Wildlife Grants for Boating Access Facilities, Government of the Virgin Islands (Report No. V-IN-VIS-0078-2004) (April 2005).

Submitted by USFWS Regional Director, Atlanta, Georgia

Auditor’s Findings and Recommendations to the U.S. Fish and Wildlife Service

1. Continue to coordinate with GVI to ensure adherence to the approved plan of action for completing the pier project expeditiously and in accordance with specifications acceptable to FWS.

1. Service Comments

The Service concurs with the recommendation. Prior to the last extension of the grant the Service required, and on October 6, 2004 approved, revised plans and specifications for construction for the pier and boat ramp. The Service also approved a proposed project completion timeline for the construction of the boat ramp. The GVI project manager has reported that to date all of the milestones have been met.

2. Continue to closely monitor the progress being made by GVI and its contractors to satisfactorily complete the project.

2. Service Comments

The Service concurs with the recommendation. GVI has employed a new contractor to complete this project. The project Manager has provided periodic reports and photographs to document the progress of the contractor.

3. Require GVI to safeguard the construction site from access by unauthorized persons until construction work is complete and the pier is certified as safe for public use.

3. Service Comments

The Service concurs with the recommendation. The Project Manager has advised the Service that the contractor has erected a fence at the construction site and posted “No Trespassing” signs.



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802
340-774-0001

May 27, 2005

Mr. Michael P. Colombo
Regional Audit Manager
United States Department of the Interior
Office of Inspector General-Western Region
Federal Building
2800 Cottage Way, Suite E-211
Sacramento, California 95825

RE: Draft Audit Report "Fish and Wildlife Grants for Boating Access Facilities, Government of the Virgin Islands" (Assignment No. V-IN-VIS-0078-2004).

Dear Mr. Colombo:

Thank you and your staff for the comprehensive review of the "Fish and Wildlife Grants for Boating Access Facilities in the U.S. Virgin Islands – Frederiksted Fisherman's Pier Project". It is our pleasure to have assisted in your determination as to whether the grant was used in accordance with applicable laws and regulations.

The Government of the Virgin Islands (GVI) concurs with the recommendations made by the Office of Inspector General on the U.S. Fish and Wildlife Service (FWS) in regard to the following:

- 1. FWS should continue to coordinate with the GVI to ensure adherence to the approved plan of action for completing the Frederiksted Fisherman's Pier Project (pier project) expeditiously and in accordance with specifications acceptable to FWS.*

The GVI has worked closely with the FWS during all phases of the pier project, including the development of approved remedial plans to bring the project back to specifications. The approved remedial plans will be strictly adhered to. Any deviation from the approved remedial plans will be submitted to FWS for review and approval and appropriate federal and territorial permit procedures will be followed. The GVI is working diligently to expeditiously complete the pier project prior to the September 30, 2005, grant deadline. The GVI has expedited advertisement of the RFP for the remedial work (March 26, 2005) and a remedial work contract (Conditional Notice to

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Proceed - April 14, 2005; Construction Contract – CC-010-DPNR-C-2005 – May 20, 2005) was issued to Zenon Construction Corporation. The present contract with Zenon Construction Corporation requires the remedial work to be completed in 30 days.

Commissioner Marc A. Biggs, Commissioner, Department of Property and Procurement (DP&P), is responsible for the pier project contract. Acting Commissioner George Phillips, Esq., Department of Public Works (DPW) is responsible for project engineering and inspections. Commissioner Dean C. Plaskett, Esq., Department of Planning and Natural Resources (DPNR), is responsible for boating access projects in the territory. DPNR is the user agency for the pier project and also responsible for water quality control at the site.

2. *FWS should continue to closely monitor the progress being made by the GVI and its contractors to satisfactorily complete the project.*

The GVI has been and continues to be in close contact with FWS on the pier project, providing project updates and photos of remedial work progress. Upon receipt of the Conditional Notice to Proceed, Zenon Construction Corporation initiated remedial work on April 26, 2005 with the construction of a sandbag cofferdam around the boat ramp. Construction of the cofferdam was completed on May 10, 2005 with the installation of 4,000 sandbags. Ramp scarification was completed on May 18, 2005. A weather disturbance in the western Caribbean created rough sea conditions that damaged the cofferdam on May 19th. A second low-pressure weather system, following the same track as the first system, has delayed repairs to the cofferdam. The contractor holds weekly construction meetings at the project site with DPW and DPNR representatives. DPNR prepares construction-meeting reports of each meeting.

Acting Commissioner George Phillips, Esq., DPW, is responsible for project engineering, inspections and representation at the construction meetings. Commissioner Dean C. Plaskett, Esq., DPNR, is responsible for representation at the construction meetings.

3. *FWS should require the GVI to safeguard the construction site from access by unauthorized persons until construction work is completed and the pier is certified as safe for public use.*

The contractor erected a security fence around the perimeter of the project site on April 26, 2005. Access to the site is restricted to construction workers only. The security fence is locked after work hours to prevent unauthorized access. Use of the facility by the public is prohibited until the construction work has been completed and the facility is certified as safe for public use. The contractor has temporarily installed steel gratings over the pier openings for safety purposes to facilitate their work. The manufacturer of the fiberglass gratings has notified the contractor that fabrication and delivery of the gratings would take six to eight weeks. The contractor has volunteered

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to supply temporary steel gratings until the fiberglass gratings are available for installation.

Site security is the responsibility of Zenon Construction Corporation, and Commissioner Dean C. Plaskett, Esq., DPNR.

The Government of the Virgin Islands (GVI) concurs with the recommendations made by the Office of Inspector General to the Governor of the Virgin Islands in regard to the following:

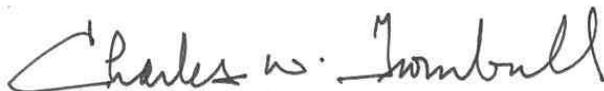
4. *GVI require DP&P to assess and collect liquidated damages from ALJ Construction or its bonding company for construction delays beyond February 2004, the last completion date extension approved through contract change orders.*

The GVI instructed legal counsel for DP&P on April 14, 2005 to immediately commence with the necessary steps to secure the full amount due to GVI from ALJ Construction's Bonding Agent.

Commissioner Marc A. Biggs, DP&P, is responsible for contract accountability and recovery of reimbursable funds to the GVI. Attached is a copy of correspondence from Commissioner Marc Biggs to Attorney General Alva Swan, Esq. requesting assistance with the recovery of liquidated damages estimated to be approximately \$42, 500 to date. Liquidated damages will continue to be assessed until the facility is completed as required.

Thank you for the opportunity to respond to the Frederiksted Fisherman's Pier audit report. I look forward to the successful completion of this project and the continued support from the Department of Interior, U.S. Fish and Wildlife Service, for boating access facilities in the Virgin Islands.

Sincerely,



Charles W. Turnbull
Governor, U. S. Virgin Islands

Copy: Department of Interior, Caribbean Field Office, St. Thomas
Sam Hamilton, Regional Director, USFWS
Michael L. Piccirilli, Chief-Federal Assistance, USFWS
Audit Liaison Officer, USFWS
Dean C. Plaskett, Esq., Commissioner, DPNR
Marc A. Biggs, Commissioner, DP&P
George Phillips, Esq., Acting Commissioner, DPW

APPENDIX 3 - STATUS OF RECOMMENDATIONS

<u>Finding/Recommendation Reference</u>	<u>Status</u>	<u>Action Required</u>
1 and 2	Resolved, Not Implemented.	Provide documentation showing that the Frederiksted Fisherman's Pier project has been completed in accordance with the September 30, 2005 extended grant deadline and the approved revised specifications.
3	Resolved and Implemented.	No further action required.
4	Resolved, Not Implemented.	Provide documentation showing that actions have been completed to recover liquidated damages from the original contractor or its bonding company.