

**Report to Congress on the
Implementation Status of Section 1147 of the
Water Resources Development Act (WRDA) of 2016
July 2017**

Introduction.

Section 1147(a) requires the environmental evaluation and Clean Water Act (CWA) Section 404 permit decision for the proposed construction of Lower Bois d'Arc Creek Reservoir (LBCR) be completed on an expeditious basis using the fastest applicable processes. Section 1147(b) also requires the Secretary of the Army provide a report to Congress no later than June 30, 2017 on the implementation of Section 1147(a). This interim report provides the necessary information for the U.S. Army Corps of Engineers (USACE) to fulfill this requirement.

References.

- a. Section 1147 of Water Resources Development Act of 2016 (WRDA 2016) included in the Infrastructure Improvements for the Nation (WIIN) Act, Pub. L. 114-322.
- b. National Environmental Policy Act (NEPA) of 1969, as amended, and the USACE regulations for NEPA implementation (33 CFR Parts 230 and 325, Appendices B and C).
- c. Availability of the Draft EIS (DEIS) for the LBCR Project, Fannin County, TX, 80 Fed. Reg. 9445 (Feb. 23, 2015).
- d. Availability of the Revised DEIS (RDEIS) for the LBCR Project, Fannin County, TX, 82 Fed. Reg. 15194 (Mar. 27, 2017).

Project Background.

The LBCR is a proposed water supply reservoir of 16,400 surface acres for customer cities in the Dallas-Fort Worth metroplex planned for construction by the permit applicant, the North Texas Municipal Water District, on Bois d'Arc Creek, a tributary of the Red River in Fannin County, Texas. This project is not a federal project and has no federal funding. The USACE Southwestern Division Tulsa District (hereafter referred as the district) Regulatory Office is serving as the lead for the CWA Section 404 permit application and coordinator for all associated NEPA documents.

Completion of the NEPA EIS and final decision on the CWA Section 404 Department of the Army permit application for dam construction is currently scheduled for January 2018. In June 2015, the Environmental Protection Agency (EPA) provided a rating of "3 – Inadequate" on the DEIS. In June 2016, the district developed a schedule for the NEPA EIS review and revision process leading to a final agency decision. This schedule was vetted with the EIS cooperating agencies and the applicant. The schedule was designed with two alternative process paths, a longer path through a RDEIS prior to FEIS and a shorter path direct to FEIS. The applicant specifically requested that a RDEIS be published, necessitating the longer path, which added approximately six additional months to the schedule. There are no lines of effort that can be eliminated or further reduced from this schedule and still support an EIS process that is fully compliant with the intent of NEPA.

In March 2017, a RDEIS was published in response to the above rating and other submitted comments. In May 2017, the EPA provided a rating of "EC-2 – Environmental Concerns and citing insufficient information" on the RDEIS. This rating is improved from the 2015 rating. The RDEIS comments are currently being considered as the district and third party

contractor work towards a Final EIS (FEIS). The current EIS decision process is on schedule and it is anticipated that a FEIS will be published in the Federal Register in September 2017.

Implementation of WRDA 2016, Section 1147.

The schedule will be adjusted for the final decision following review and consideration of comments on the RDEIS, as appropriate. The final decision on the permit application will be made following completion of the required 30-day availability of the FEIS and the preparation of a response document identifying all comments received on the FEIS. It is currently anticipated that a Record of Decision will be finalized on schedule by January 2018.

The district has held agency leadership update meetings quarterly to keep the applicant, EPA, and Congressional interests fully informed and updated on the ongoing status of the process. In addition, the district coordinates with EPA, the applicant, and the third party EIS contractor on a bi-weekly basis regarding project schedule and products. Further, the third party EIS contractor has added resources to the EIS team, which the applicant has funded, and the district is directing and engaging the team's work on a daily basis.

The USACE is committed to completing the review of the RDEIS and permit application decision expeditiously, as per the agreed schedule and within permit review parameters. The USACE and the district has maintained compliance with NEPA and other federal laws that must be addressed throughout the process, and will maintain the integrity of the NEPA process. The district continues to be diligent in expediting review times while remaining within compliance for the governing regulations.