

CHAPTER 6 PUBLIC INVOLVEMENT, REVIEW AND CONSULTATION

PUBLIC INVOLVEMENT

PURPOSE OF PROGRAM

This Feasibility Study focused on the development of an economically feasible, environmentally acceptable, publicly supportable solution to the flooding problems within the city of Wharton. Numerous meetings and conversations have been held with the various entities and interested citizens to share the latest possible information and to focus this study toward investigating the most viable alternatives. In addition, various public workshops/meetings were held in the study area for the citizens to give input into the problems and possible solutions, as stipulated by Public Law 99 662 and Public Law 104-303.

The Final Programmatic Environmental Impact Statement (PEIS) for Flood Damage Reduction and Ecosystem Restoration, Lower Colorado River Basin, Colorado River, Texas dated August 2005 was prepared for the LCRA and USACE sponsored projects in the lower Colorado River basin. This document underwent a public involvement process as required by the National Environmental Policy Act (NEPA), of which the Wharton Interim Feasibility Study was a part of. Meetings were held throughout the basin as described in Chapter 8 of that document. The meetings held in Bay City, Texas are described below as they targeted the Gulf Coast Area.

PARTICIPANTS

The study team worked closely over a four-year period in an effort to inform and involve the concerned citizens in the study area. The team did this by holding various public workshops and by maintaining a project website that was updated monthly. The project website is located at www.fdep.org. The public involvement team included members from USACE, the City of Wharton, and LCRA. Jones and Carter, Inc., the City's contractor, was involved with all of the public involvement as well. In addition to the public meetings, the project sponsors hold monthly business meetings, which are open to the public. These meetings are either held in Austin or Wharton.

PUBLIC WORKSHOPS

Public involvement for the Lower Colorado River Basinwide Feasibility Study, to which this document is tiered, started very early in the process as documented in Chapter 8 of the *PEIS*. This document can be found on the Fort Worth District at www.swf.usace.army.mil. A summary of the public involvement for the PEIS is as follows:

1. On July 31, 2001, the Corps issued a Notice of Intent (NOI) to prepare an Environmental Impact Statement
2. Three NEPA Public Scoping Meetings were held on the following dates and locations:
 - a. September 16, 2003, LCRA Western District Complex at Buchanan Dam, Texas
 - b. September 17, 2003, LCRA McKinney Roughs facility near Bastrop, Texas
 - c. September 18, 2003, Bay City Civic Center in Bay City, Texas
3. A Notice of Availability of the Draft PEIS was mailed out to the public and 3 public meetings were held to answer questions and receive comments on the following dates and locations:
 - a. April 12, 2005, LCRA McKinney Roughs facility near Bastrop, Texas

- b. April 13, 2005, LCRA Western District Complex at Buchanan Dam, Texas
- c. April 14, 2005, Bay City Civic Center in Bay City, Texas

Workshops specific to the Wharton study were also conducted throughout the course of the study. On March 21, 2002, the USACE Project Manager gave a presentation at the Town Hall Meeting at the Wharton Junior College. This was a project information meeting to inform the public that the City of Wharton, LCRA, and USACE was partnering to study and attempt to resolve the flooding problem within the City of Wharton and ask the general public for comments on the study. Comments received were that the residents wanted flood protection and that the Corps process was slow with proposed project implementation being in 2008.

On April 30, 2003 a Public Information Meeting was held in Smithville, Texas for members of the Texas Colorado River Flood Plain Coalition. An overview of the Lower Colorado River Basinwide Study was presented and how the study is trying to address the overall flooding problems within the basin including the Wharton Interim Feasibility Study. The Coalition thanked the Corps and the LCRA for helping in the basin and that they wanted to see plans in the future to try and solve a majority of the flooding problems in the future. One big concern of the Coalition is that one county of municipality not increase flooding so as to cause additional damages and increase flooding downstream.

On January 22, 2004, a public workshop was conducted at Wharton City Hall where USACE revealed preliminary results of the formulation of alternatives. The structural alternative was identified as the plan that would be support by the Federal government. 47 people attended the meeting.

On April 14, 2005, a PEIS public meeting was held to receive comments on the draft PEIS. Notices were published in the Bay City Gazette and a mailing was mailed to over 800 people; however only two people participated in the meeting. No public comments were received in the meeting.

On May 22, 2006, a project update including schedule and budget was given to the Wharton City Council by the Fort Worth District Project Manager, which is broadcast on local public broadcast channels. The city council offered continued support for the project and looked forward to seeing the draft report in August 2006.

PUBLIC REVIEW

On August 18, 2006 a Notice of Availability was sent out to the public officially releasing the draft Report for a 30-day public review period. A copy of the report was sent to the Wharton Public Library. The Notice of Availability (Appendix H) was sent to the PEIS mailing list as well as a local mailing list provided by the city of Wharton. No comments from the general public were received regarding the Wharton Interim Feasibility Study.

The Corps held a public meeting on September 14, 2006 during the public comment period to discuss the Recommended Plan and the future of the Study. Over 25 people attended and there was overwhelming support for the project by the local community. The main comment was that the study was moving way to slow and the local residents wish the Corps could move faster to implement the project. One local resident was not real happy with the placement of the sumps as one of the sumps would be located on what it currently his property. Overall, the public supports the entire Wharton Project.

AGENCY COORDINATION

Federal and State agencies were informed of the ongoing study. Agency coordination is documented with various agencies including: the U.S. Fish and Wildlife Service (USFWS), U.S. Environmental Protection Agency (EPA), U.S. Department of Agricultural (Natural Resource Conservation Service (NRCS)), National Marine Fisheries Service (NMFS), Department of Homeland Security (Federal Emergency Management Agency (FEMA)), Texas Parks and Wildlife Department (TPWD), Texas Water Development Board (TPWD) and Texas Commission on Environmental Quality (TCEQ), Texas State Historical Preservation Officer (SHPO) and various Indian Tribes. General coordination letters were sent to these agencies presenting the proposed plan and notification of when the draft report would be available for public and agency coordination (Appendix H). Coordination with the agencies is documented below.

The earliest coordination, which included members from USFWS, TPWD, NMFS TCEQ, and FEMA was conducted during the preparation of the PEIS conducted as part of the Basinwide planning effort, of which Wharton was a part of. This coordination is documented in that document, which is located on the Fort Worth District website at www.swf.usace.army.mil.

USFWS participated in early project planning efforts. Participation included phone calls, email, going on site visits to Wharton and meetings at the Corps office in Galveston. Agency concerns documented early in the process include:

1. Keep impacts, as a result of project implementation, to Peach Creek to a minimum. USFWS recommended not implementing project alternatives in Peach Creek so as not to impact some of the only remaining high quality habitat within the study area.
2. Mitigation requirements for riparian woodlands as a result of project implementation should be mitigated by preserving the remaining "Austin Woods" segments in the Wharton Area. Only about 25% of these resources remain and are currently in private ownership, so protection is limited. Preservation would be the best mitigation measure for impacts to riparian woodlands.

The Corps also mailed a scoping letter specific to the Wharton Study to USFWS on June 20, 2006 (Appendix H). USFWS provided a draft Fish and Wildlife Coordination Act Report (CAR) dated September 2006. The main recommendation in the draft CAR was to not perform mitigation for riparian woodlands in the proposed sumps, but rather perform preservation of the Austin woods as previously discussed. The Corps responded to the draft CAR by letter on October 4, 2006. The Corps advised USFWS that Corps regulations did not allow the Corps to pick a mitigation measure that was not cost effective when there is a measure that would offset the impacts that is cost effective and incrementally justified. USFWS has prepared a final CAR, which is enclosed in Appendix D.

A meeting was held on June 6, 2006 at the EPA office in Dallas, in which the Corps presented the Recommended Plan of the Wharton Study. The EPA agreed that the Recommended Plan was the only viable option in the Wharton Area and generally supported the project. The EPA was sent a copy of the draft report and no comments were received from EPA.

A coordination letter was sent to the NRCS on January 9, 2006, to gain compliance with the Farmland Protection Policy Act (FPPA). The NRCS replied to the letter on January 25, 2006, stating that the Corps was in compliance with the FPPA and no further consideration was necessary. Due to the sumps being added and project impacts changing, a second letter was sent to NRCS on July 7, 2006. A response dated July 17, 2006 was received from the NRCS and stated that projects impacts were in compliance with the FPPA and that no further consideration was needed (Appendix H).

A letter dated June 28, 2006, was received from NMFS in response to the Corps' coordination letter in which NFMS indicated that no further coordination was needed since no impacts to the coastal area were expected.

TPWD also attended meetings and went on site visits. Early concerns of TPWD mirrored those of USFWS and included avoiding Peach Creek and preservation of the Austin Woods as mitigation measures. A letter of support dated October 3, 2006 for the Wharton Study was received from TPWD and is included in Appendix H.

A meeting was held with the TCEQ at their office in Austin on June 23, 2006 in order to discuss the Wharton Study. TCEQ agreed that the Recommended Plan was the only viable alternative. TCEQ was concerned that the proposed Colorado River levee may have secondary effects on adjacent wetlands that were hydrologically connected to the Colorado River. The Corps assured TCEQ that this would not happen and that the wetlands would still be jurisdictional under the Corps permitting requirements. TCEQ commented on the draft report with a letter dated September 18, 2006. The Corps responded to the comments with a letter dated September 27, 2006 (Appendix H). The comments were generally about the Onion Creek project, but TCEQ reiterated the concern about the wetlands and asked for additional information on Baughman Slough. The information was provided and subsequent telephone conversations indicated that water quality certification will be provided and will be included in Appendix H.

A letter was sent to SHPO on August 16, 2006, transmitting a draft Programmatic Agreement (PA) for SHPO review. On August 18, 2006, SHPO sent comments on the draft PA to the Corps, and on August 21, 2006 having not received the letter from SHPO yet, a second letter was sent to SHPO transmitting the draft Project Report, with the same draft PA included in the Report. Therefore, since the draft Report still had the same draft PA without SHPO's comments addressed, a second letter was received from SHPO on September 18, 2006, in which SHPO stated that the Corps was not in Section 106 compliance because the draft PA had not been changed. Since then, the Corps has submitted the final PA to SHPO via email as requested in the letter and the final PA is being negotiated.

FEMA provided their boiler plate response to the draft Report, that the proposed project should be coordinated with the local floodplain administrator. Mr. Prudencio Arriaga Sr., City of Wharton Floodplain Administrator, is aware of the proposed project and has no negative comments on the Recommended Plan. He attended the public meeting.

The TWDB has been a project partner due to the fact that they are providing 50% of the funding requirements of the Non-Federal Sponsor for the Feasibility Study. Their participation in this effort has allowed the Lower Colorado River Authority and the City of Wharton to participate in the study without being an excessive cost burden. TWBD has been a valuable project partner.

COMMENTS AND RESPONSES

No public comments were received from the general public during the 30-day public review. Overwhelming support for the project was documented in the public meetings held during the comment period. Agency comments and responses are addressed in the above Agency Coordination Section.