

## 1.0 Introduction

Surface coal and lignite mining operations typically conduct work that results in impacts to waters of the U.S. Such work requires permitting under Section 404 of the Clean Water Act, and for projects affecting navigable waters, permitting under Section 10 of the Rivers and Harbors Act of 1899 (RHA). These programs are administered by the U.S. Army Corps of Engineers (USACE). As part of the permit evaluation process associated with Section 404 and Section 10 permit authorizations, the USACE is also required to comply with the regulatory requirements of the National Environmental Policy Act of 1969 (NEPA) in evaluating the potential impacts of an action.

The USACE Fort Worth District is proposing changes to the USACE regulatory framework for surface coal and lignite mines in Texas. The proposed revisions would include the addition of a Regional General Permit (RGP) and a revised Letter of Permission (LOP). Thresholds that would trigger an Individual Permit (IP) would reflect the upper thresholds of the proposed LOP. No changes to the existing criteria for a Nationwide Permit (NWP) 21 or NWP 49, or to the District's current Section 404 mitigation guidelines for surface coal and lignite mines in Texas, are proposed.

Historically, permit evaluations associated with surface coal and lignite mine expansions have required substantial time periods for review. These timeframes have been influenced in part by the need to develop resource information, undertake data gathering efforts, and coordinate with various agencies and their permit review processes. The anticipated number of future permit applications requiring USACE compliance with NEPA, along with agency resource constraints, could further extend review times. The USACE seeks to ensure it can adapt and efficiently respond to multiple concurrent requests for permits that could occur in the future and reduce the need for duplicative data collection.

The USACE, as lead federal agency, is preparing this Regional Environmental Impact Statement (REIS) to analyze potential impacts within defined geographic regions in Texas that may be affected by future USACE permit decisions for future surface coal and lignite mine expansion areas and satellite mines within the District's area of responsibility. The REIS is being prepared in compliance with NEPA, the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] 1500-1508), and the USACE Procedures for Implementing NEPA (33 CFR 230). The Office of Surface Mining, Reclamation, and Enforcement (OSMRE); Railroad Commission of Texas (RCT); U.S. Environmental Protection Agency (USEPA); and U.S. Fish and Wildlife Service (USFWS) are serving as cooperating agencies.

Many of the federal and state agency regulatory requirements and environmental issues associated with surface coal and lignite mining projects are similar, such as large landscape alterations, impact avoidance, mitigation measures, performance metrics/monitoring, and contributions to cumulative impacts. Therefore, the USACE Fort Worth District is undertaking the REIS to make the NEPA aspect of the USACE's Section 404/10 permitting processes more efficient through the development of information, data, and analysis to be used in 404(b)(1) guidelines and public interest review analyses for potential future surface coal and lignite mine expansion areas and satellite mines in Texas.

The USACE Fort Worth District's goals for the REIS are to:

- Provide a NEPA-compliant, scientifically-based regional environmental analysis, including an interdisciplinary cumulative impact assessment, of all relevant resources within the defined geographic regions;
- Develop datasets to assist with the formulation of a categorized permit process;

- Facilitate future NEPA tiering or supplementation for the evaluation of future project-specific Section 404/10 permit applications for surface coal and lignite mines;
- Establish a cohesive framework for stream mitigation, establish sound performance metrics, and enhance monitoring efforts;
- Assist in streamlining the NEPA aspect of USACE Fort Worth District Section 404/10 permitting for surface coal and lignite mines so that the process is more consistent and efficient; and
- Address, as feasible, other agency issues related to resource mitigation.

The REIS will:

- Not render a decision on any specific mine project;
- Not provide complete NEPA compliance for future proposed surface coal or lignite mine expansion areas or satellite mines; and
- Not provide NEPA documentation for any new power plants.

Both tiering and supplementation allow an agency to avoid duplication of effort through incorporation of relevant information and analyses from one NEPA document (e.g., environmental impact statement [EIS]) into another NEPA document. In general, both tiered and supplemented NEPA documents for future surface coal and lignite mines would rely on the REIS analysis plus the future project-specific permit applications and environmental baseline field studies to provide the level of detail needed to support the project-specific NEPA analyses. A supplemented NEPA document would require a greater level of additional information and an expanded analysis due to project-specific issues or updated information since preparation of the REIS.

### **1.1 Study Area Setting**

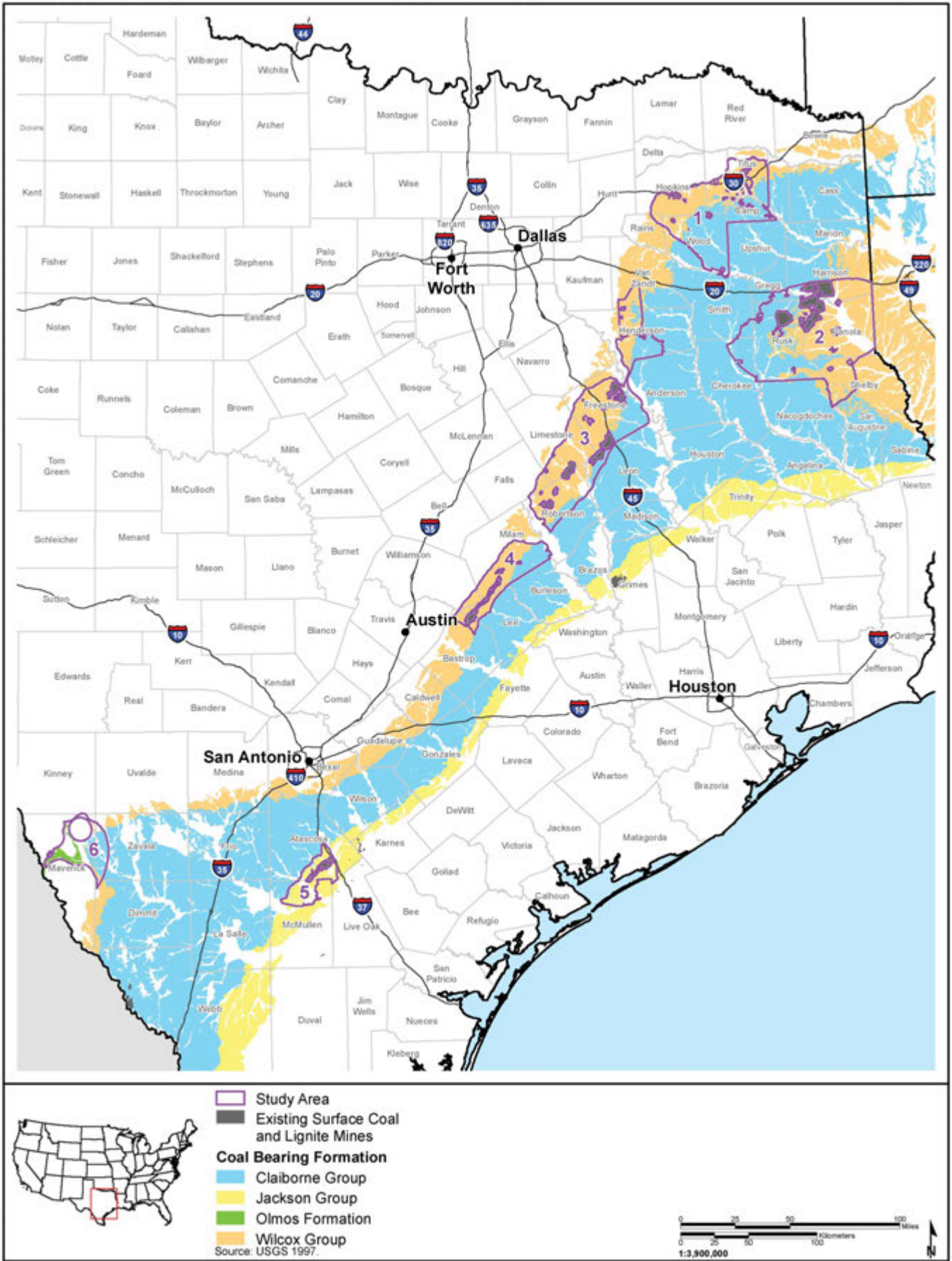
The REIS considers six study areas along the coal-bearing formations in Texas that run from southwest Texas to northeast Texas (see **Figure 1-1**). A more detailed discussion of these areas is presented in Chapter 2, Section 2.2. The study areas encompass locations within the coal/lignite belt in Texas that were determined to be within reasonable proximity to existing surface coal and lignite mines with potential for future expansion.

### **1.2 USACE Purpose and Need for Action**

Currently operating surface coal and lignite mines in Texas provide a long-term, reliable, continuous, and economically stable fuel source to existing nearby power plants, with one mine providing raw lignite material to an existing carbon activation plant. As the existing permitted surface coal and lignite mines approach the extent of the reserves that can be safely and economically recovered within the limits of their current mine areas, expansion of mine areas will be required in order to continue to meet their supply obligations.

Surface coal and lignite mining projects typically conduct work that results in impacts to waters of the U.S. Such work requires authorization under Section 404 of the Clean Water Act, and for projects affecting navigable waters, authorization under Section 10 of the RHA of 1899. These programs are administered by the USACE. As part of the permit evaluation process associated with Section 404 and Section 10 permit authorizations, the USACE is also required to comply with the regulatory requirements of NEPA in evaluating the potential impacts of a proposed action.

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Figure 1-1 Study Areas

A majority of the future surface coal and lignite mining proposals will require Section 404 (and in some cases Section 10) permits and associated NEPA compliance documents. The anticipated number of future permit applications requiring USACE Fort Worth District compliance with NEPA, along with agency resource constraints, could result in lengthy review times. Historic permit evaluations associated with mine expansions have required substantial time periods. These timeframes have been influenced in part by the need to develop resource information, undertake data gathering efforts, as well as coordination with various agencies and their permit review processes. The USACE Fort Worth District also needs to ensure it can adapt and efficiently respond to multiple concurrent requests for permits that may occur in the future. In addition, mine operators also have to coordinate with and obtain authorizations from other agencies which can contribute to additional time for other evaluation and regulatory decisions they are pursuing.

Many of the federal and state agency regulatory requirements and environmental issues associated with surface coal and lignite mining projects are similar, such as large landscape alterations, economic effects, impact avoidance, mitigation measures, performance metrics/monitoring, and the contribution to cumulative impacts. Therefore, the USACE Fort Worth District is undertaking the REIS to streamline the NEPA aspect of the District’s Section 404/10 permitting process, as well as to develop information, data, and analysis to be used in Section 404(b)(1) guidelines and public interest review analyses for future coal and lignite mine expansion areas and satellite mines in Texas. The USACE Fort Worth District’s purpose for the REIS is to provide a NEPA-compliant environmental evaluation focusing on potential direct, indirect, and cumulative aquatic resource impacts, in addition to all other relevant environmental and human resources within the defined geographic regions in Texas that would be associated with and affected by future USACE permit decisions. Additionally, this REIS will serve to establish a cohesive framework for stream mitigation, establish sound performance metrics, and enhance project monitoring efforts. This assessment would facilitate future tiering or supplementation in the evaluation of future project-specific Section 404/10 permit applications for surface coal and lignite mines. A single regional NEPA document is intended to avoid duplication and be more efficient and effective for the lead and cooperating agencies involved in the regional NEPA process in making future decisions under their respective authorities.

### 1.3 Typical Permits, Approvals, and Authorizations for Surface Coal and Lignite Mines

The typical federal, state, and local permits and approvals that may be required for a future proposed surface coal or lignite mine expansion are identified in **Tables 1-1** and **1-2**. The final list of required permits and approvals for a proposed mine expansion would be determined at the time of permit application submittal and, in part, would depend on site-specific conditions and resources within a future proposed disturbance area.

**Table 1-1 Typical Environmental Permits**

Authorizing Agency	Permit
<b>Federal</b>	
USACE	Clean Water Act (CWA), Section 404 Permit
	Rivers and Harbors Act (RHA), Section 10 Permit
U.S. Fish and Wildlife (USFWS)	Threatened and Endangered Species Relocation Permit
<b>State of Texas</b>	
Railroad Commission of Texas (RCT)	Surface Coal Mining and Reclamation Permit
Texas Commission on Environmental Quality (TCEQ)	Section 401 Water Quality Certification
	Waste Discharge Permit
	Water Rights Exemption
	Water Right Appropriation

**Table 1-1 Typical Environmental Permits**

Authorizing Agency	Permit
	Water Supply Contract
	Storm Water Notice of Intent for Construction Activities
	Storm Water General Permit for Industrial Activities
	Air Quality Permit
Texas Parks and Wildlife Department (TPWD)	Threatened and Endangered Species Relocation Permit

**Table 1-2 Typical Requirements, Approvals, and Coordination**

Agency	Requirements, Approvals, or Coordination
<b>Federal</b>	
U.S. Environmental Protection Agency (USEPA)	NEPA Document Review
	RCT Permit Review
USFWS	Endangered Species Act (ESA) Section 7 Consultation
Mine Safety and Health Administration (MSHA)	Identity Report Training Plan
<b>State of Texas</b>	
Texas Department of Transportation (TxDOT)	Approval for Road Closures
Texas Historical Commission (THC)	Compliance with Nation Historic Preservation Act (NHPA)
	Section 106 Consultation
	Compliance with American Indian Religious Freedom Act
TCEQ	Notification of Open Burning
<b>Local</b>	
County Sheriffs	Notification of Open Burning
Commissioners Court	Approval for County Road Closures

**1.4 Organization of the REIS**

This REIS complies with CEQ requirements (40 CFR 1502.10) and the USACE’s requirements (33 CFR 325, Appendix B). Chapter 1.0 provides descriptions of the USACE’s purpose and need and the typical regulatory actions that would be required for a potential future surface coal or lignite mine expansion. Chapter 2.0 describes the alternatives, including the Proposed Action and No Action, as well as the past, present, and reasonably foreseeable future actions (RFFAs) considered in the cumulative effects analysis. Chapter 3.0 describes the affected environment and the potential direct, indirect, and cumulative impacts associated with the Proposed Action and No Action alternatives; mitigation measures being considered by the USACE Fort Worth District to minimize potential impacts; and residual adverse effects. Chapter 4.0 summarizes public participation and the scoping process, as well as the consultation and coordination undertaken to prepare the REIS. Chapter 5.0 presents the list of REIS preparers and reviewers. Chapter 6.0 provides the list of references. Chapters 7.0 and 8.0 contain the glossary and index, respectively. Copies of supporting documents are available for public review on the USACE Fort Worth District website at: <http://www.sfw.usace.army.mil/Missions/Regulatory/ProjectsofInterest.aspx>.