



**US Army Corps  
of Engineers** ®  
Fort Worth District

# Public Notice

Number: SWF-2010-00244

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Activity: Regional Environmental Impact Statement for  
Coal and Lignite Mining

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Date: October 24, 2013

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The purpose of this public notice is to inform you of a Regional Environmental Impact Statement being prepared by the U.S. Army Corps of Engineers Fort Worth District.

## **Regulatory Program**

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

## **Section 10**

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

## **Section 404**

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

## **Contact**

Name: Mr. Darvin Messer

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Phone Number: 817-886-1744

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## PUBLIC NOTICE

### REGIONAL ENVIRONMENTAL IMPACT STATEMENT FOR SURFACE COAL AND LIGNITE MINING

#### U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

**Subject:** The U.S. Army Corps of Engineers, Fort Worth District (USACE) is releasing this Public Notice to announce the preparation of a 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 expansions within the District's area of responsibility. The REIS will analyze the potential future direct, indirect, and cumulative impacts to waters of the U.S. and all other relevant environmental and human resources, and will facilitate the District's formulation of a categorized permit process. Information pertaining to the REIS can be found at <http://www.swf.usace.army.mil/Missions/Regulatory/Permitting/REISforLigniteMininginTexas.aspx>.

**DATE ISSUED:** October 24, 2013

**LOCATION:** The REIS will 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 expansions within the District's area of responsibility (Page 2 of attached Scoping Announcement).

**SUMMARY:** Surface coal and lignite mining projects in the USACE Fort Worth's area of responsibility 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 Rivers and Harbors Act of 1899. These programs are administered by the USACE. The anticipated number of future permit applications requiring the USACE compliance with the National Environmental Policy Act (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 also needs to ensure it can adapt and efficiently respond to multiple concurrent requests for permits that may occur in the future.

The USACE is undertaking a REIS to streamline the NEPA aspect of the Section 404/10 permitting process, as well as to develop information, data, and analyses to be used in 404(b)(1) guidelines and public interest review analyses for future coal and lignite mine expansions in Texas subject to permitting by the USACE. The REIS is intended to provide an environmental evaluation focusing on the potential direct, indirect, and cumulative aquatic resource impacts, in addition to other relevant environmental and human resources, that could be affected by future surface coal and lignite mining within defined geographic regions in Texas. The REIS would facilitate future tiering or supplementation of the NEPA analysis in the REIS in the evaluation of future project-specific Section 404/10 permit applications. It also is intended to provide a

cohesive framework for stream mitigation, establishment of sound performance metrics, and enhance project monitoring efforts associated with these types of activities. The REIS is intended to avoid duplication and provide efficiency and effectiveness with future decisions.

The REIS will be prepared according to the USACE's procedures for implementing the NEPA, as amended, 42 U.S.C. 4332(2)(c), and consistent with the USACE's policy to facilitate public understanding and review of agency proposals. As part of the REIS process, a full range of reasonable alternatives, including the proposed Action and no action, will be evaluated. The use of a third party contract arrangement will be utilized to develop the REIS funded by the Texas Mining and Reclamation Association.

The USACE has invited the U. S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Office of Surface Mining, Natural Resources Conservation Service, Railroad Commission of Texas, Texas Commission on Environmental Quality, Texas Parks and Wildlife Department, Texas Historical Commission and the Louisiana Department of Wildlife and Fisheries to be cooperating agencies in the formulation of the REIS.

The USACE will be conducting public scoping meetings at three locations to describe the Project, preliminary alternatives, the NEPA compliance process, and to solicit input on the issues and alternatives to be evaluated and other related matters. Public scoping meetings for the REIS will be held on:

1. Tuesday, December 3, 2013, 4 PM – 7 PM, at the Uvalde County Fairplex-Event Center, 122 Veterans Lane, Uvalde, Texas 78801.
2. Wednesday, December 4, 2013, 4 PM – 7 PM, at the Railroad and Heritage Museum, 315 W. Avenue B, Temple, Texas 76501.
3. Thursday, December 5, 2013, 4 PM – 7 PM, at the Tyler Rose Garden Center, 420 South Rose Park Drive, Tyler, Texas 75702.

Written comments for scoping will be accepted until December 20, 2013. The USACE has prepared a scoping announcement (attached) to familiarize agencies, the public and interested organizations with the proposed action and potential environmental issues that may be involved. The scoping announcement describes the target resources to be assessed, the proposed areas of assessment, and the mines that may utilize the information developed through this effort. Copies of the scoping announcement will be available at the public scoping meetings or can be requested by mail.

The point of contact for the REIS is Mr. Darvin Messer; Regulatory Branch, CESWF-PER-R; U.S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1744.

DISTRICT ENGINEER  
FORT WORTH DISTRICT  
CORPS OF ENGINEERS

# Scoping Announcement

## Regional EIS for Surface Coal and Lignite Mining in Texas

October 2013



**US Army Corps  
of Engineers**®  
Fort Worth District

The U.S. Army Corps of Engineers (USACE), Fort Worth District (District) is preparing a 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 expansions within the District's area of responsibility. The REIS will analyze the potential future direct, indirect, and cumulative impacts to waters of the U.S. and all other relevant environmental and human resources, and will facilitate the District's formulation of a categorized permit process. This scoping announcement provides information on the REIS and the public involvement process under the National Environmental Policy Act of 1969 (NEPA).

### Why is the Regional EIS being prepared?

Surface coal and lignite mining projects 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. 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 an action.

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.

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 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 expansions in Texas.

### USACE's Goals for the Regional EIS

The USACE'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 Section 404/10 permitting so that the process is more consistent, predictable, and efficient; and
- Address, as feasible, other agency issues related to resource mitigation.

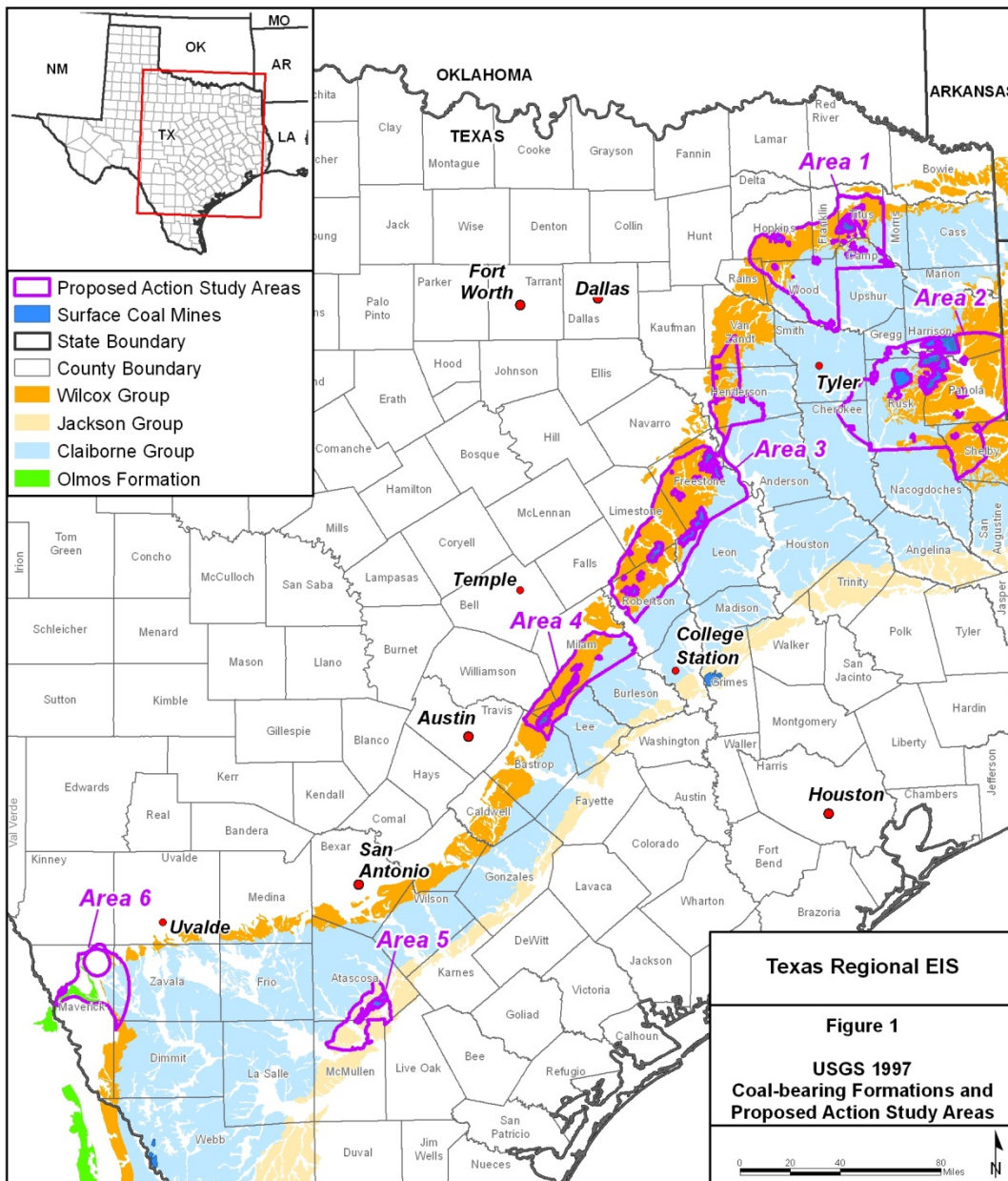
**What the REIS Will Not Do**

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 expansions; and
- Not provide NEPA documentation for any new power plants.

**REIS Study Areas**

The six study areas for the REIS are shown in Figure 1 and summarized in Table 1.



**Texas Regional EIS**  
**Figure 1**  
**USGS 1997**  
**Coal-bearing Formations and**  
**Proposed Action Study Areas**

**Table 1: Percent of Each Study Area Potentially Affected by Future Surface Coal or Lignite Mine Expansions**

Proposed Action Study Areas	Approximate Total Acreage in Study Area	Total Estimated Disturbance Acreage under Anticipated Requests for Future Authorizations	Estimated Percent of Study Area Potentially Affected under Anticipated Requests for Future Authorizations
Study Area 1	912,500	13,500	1.5
Study Area 2	1,449,300	50,200	3.5
Study Area 3	1,219,200	50,600	4.2
Study Area 4	365,300	9,800	2.7
Study Area 5	180,800	9,500	5.3
Study Area 6	252,300	25,000	9.9
<b>Total</b>	<b>4,379,400</b>	<b>158,600</b>	<b>3.6</b>

### What are Tiering and Supplementation?

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., 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.

### Categories for Future NEPA Tiering or Supplementation

The USACE has defined preliminary categories for future project-specific NEPA tiering/supplementation purposes as described below. The Section 404/10 permit requirements also are included.

**Category 1:** Those projects that meet the current Letter of Permission (LOP) CESWF-11-LOP-3. To qualify for evaluation under

LOP-3, projects must be designed to meet certain threshold limits including: 1) no more than 20 total acres of wetlands, of which forested wetlands would be limited to a subtotal of 10 acres, and 2) no more than 20,000 linear feet of stream, of which perennial streams would be limited to a subtotal of 1,000 linear feet. Other factors related to future project-specific impacts would also be considered in the USACE's decision relative to the use of LOP-3. From a NEPA perspective, Category 1 projects would have no anticipated significant impacts, as determined by the USACE under their authority as the lead federal agency for the NEPA document.

Category 1 projects typically would require a LOP or routine Individual Permit (IP) and a basic Environmental Assessment (EA) with an anticipated Finding of No Significant Impact (FONSI).

**Category 2:** Those projects that would result in impacts to waters of the U.S. in excess of the current LOP criteria. From a NEPA perspective, Category 2 projects would have no anticipated significant impacts, as determined by the USACE under their authority as the lead federal agency for the NEPA document.

Category 2 projects would require an IP and a more complex, robust EA with an anticipated FONSI or mitigated FONSI.

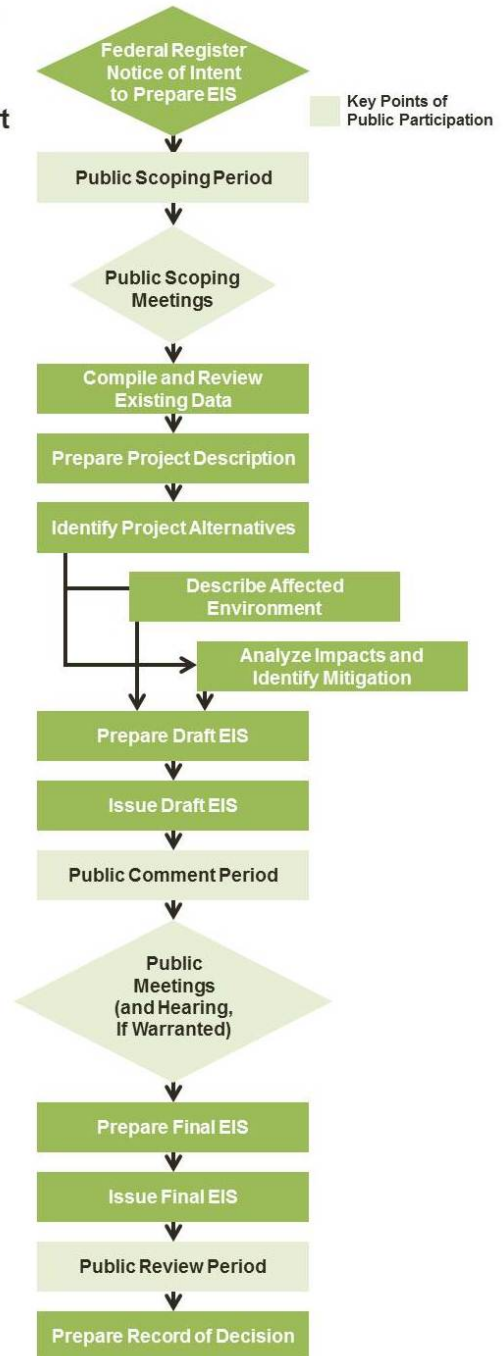
**Category 3:** Those projects that would result in impacts to waters of the U.S. in excess of the current LOP criteria (similar to Category 2). From a NEPA perspective, Category 3 projects would have the potential for significant impacts, as determined by the USACE under their authority as the lead federal agency for the NEPA document.

Category 3 projects would require a complex IP and an EIS.

### Public Engagement - What is Scoping?

As defined by NEPA (1501.7), scoping for an EIS is a process to actively solicit input from the public and interested federal, state, and local agencies on the issues and alternatives to be evaluated in an EIS. Therefore, the public's participation during the scoping period is a vital component to preparing a comprehensive and sound document. The key points of public participation for an EIS include the public scoping period, the Draft EIS public comment period, and the Final EIS public review period. Each of the public involvement periods is initiated by the lead federal agency with publication of a notice in the Federal Register (see Figure 2).

**Figure 2  
NEPA  
Process  
Flowchart**



The USACE initiated the scoping process for the REIS by publishing the Notice of Intent to prepare an EIS in the Federal Register on October 24, 2013. The USACE has scheduled three public scoping meetings to solicit input from the public as identified below. **The public scoping period ends December 20, 2013.**

<b>Uvalde, Texas</b>
<b>December 3, 2013, 4:00pm to 7:00pm</b>
<b>Fairplex Event Center 122 Veterans Lane, Uvalde, TX 78801</b>

<b>Temple/Belton, Texas</b>
<b>December 4, 2013, 4:00pm to 7:00pm</b>
<b>Railroad and Heritage Museum 315 W. Avenue B, Temple, TX 76501</b>

<b>Tyler, Texas</b>
<b>December 5, 2013, 4:00pm to 7:00pm</b>
<b>Rose Garden Center 420 South Rose Park Drive, Tyler, TX 75702</b>

The purpose of the scoping meetings is to:

- 1) Inform the public about the background, purpose, and components of proposed action and
- 2) Solicit public input on the issues, including potential impacts to the aquatic environment, and feedback on any

potential policy-related alternatives that should be considered.

The REIS is a policy-orientated document; therefore, mining-related alternatives (e.g., alternative mining methods) will not be evaluated in the REIS.

If you cannot attend one of the meetings, your comments pertaining to the REIS can be sent to Darvin Messer at the mailing address or email address provided below. **Comments must be received no later than December 20, 2013, the end of the scoping period.** A comment form is attached for your use.

Mr. Darvin Messer, Project Manager  
U.S. Army Corps of Engineers,  
Fort Worth District  
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819 Taylor Street  
Fort Worth, TX 76102  
[Darvin.Messer@usace.army.mil](mailto:Darvin.Messer@usace.army.mil)

<b>Acronyms:</b>
<b>FONSI – Finding of No Significant Impact</b>
<b>IP – Individual Permit</b>
<b>LOP – Letter of Permission</b>
<b>NEPA – National Environmental Policy Act</b>
<b>REIS – Regional Environmental Impact Statement</b>
<b>USACE – United States Army Corps of Engineers</b>



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**Fold 2**

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**Mr. Darvin Messer, Project Manager  
U.S. Army Corps of Engineers, Fort Worth District  
P.O. Box 17300  
819 Taylor Street  
Fort Worth, TX 76102**

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**Fold 1**

**Project mailing list for the REIS for Surface Coal and Lignite Mining in the State of Texas**

To have your name added or removed from our mailing list for this project, please check the appropriate box and return this comment form to us. If you do not ask us to remove your name from our mailing list, we will send you future EIS-related announcements.

Add my name to the mailing list

Remove my name from the mailing list

**Sign up to receive the REIS**

To receive a CD of the REIS for review when it is available, please check below.

Send me a CD of the REIS for review

*Note: Fold the comment form on the lines with the return address showing, tape it closed, affix a stamp, and drop it in the mail to us. Additional sheets may be attached.*