

### B. Cost-Benefit Analysis

Section 15(a) of the CEA<sup>7</sup> requires the Commission to consider the costs and benefits of its actions before issuing an order under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of such an order or to determine whether the benefits of such an order outweigh its costs; rather, it requires that the Commission "consider" the costs and benefits of its action. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

The bulk of the costs imposed by the requirements of Commission Rule 36.3 relate to significant and increased information-submission and reporting requirements adopted in response to the Reauthorization Act's directive that the Commission take an active role in determining whether contracts listed by ECMs qualify as SPDCs. The enhanced requirements for ECMs will permit the Commission to acquire the information it needs to discharge its newly-mandated responsibilities and to ensure that ECMs with SPDCs are identified as entities with the elevated status of registered entity under the CEA and are in compliance with the statutory terms of the core principles of section 2(h)(7)(C) of the Act. The primary benefit to the public is to enable the Commission to discharge its statutory obligation to monitor for the presence of SPDCs and extend its oversight to the trading of SPDCs.

Issued in Washington, DC, on October 5, 2009 by the Commission.

**David A. Stawick,**

*Secretary of the Commission.*

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### COMMODITY FUTURES TRADING COMMISSION

#### Sunshine Act Meetings

#### AGENCY HOLDING THE MEETING:

Commodity Futures Trading Commission.

#### Sunshine Act Meetings

**TIME AND DATE:** 11 a.m., Tuesday, October 27, 2009.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Rule Enforcement Review Meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Sauntia S. Warfield, 202-418-5084.

**Sauntia S. Warfield,**

*Assistant Secretary of the Commission.*

[FR Doc. E9-24560 Filed 10-7-09; 4:15 pm]

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### DEPARTMENT OF DEFENSE

#### Department of the Army; Corps of Engineers

#### Intent To Prepare a Draft Environmental Impact Statement for the Proposed Dallas Floodway Project, a Multipurpose Project Containing Levee Remediation, Flood Risk Management, Ecosystem Restoration, Recreation Enhancement, and Other Proposed Projects Along the Trinity River Within and Adjacent to the Existing Dallas Floodway in Dallas County, Dallas TX

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** The U.S. Army Corps of Engineers (USACE), Fort Worth District, in partnership with the City of Dallas, intends to prepare a Draft Environmental Impact Statement (DEIS), pursuant to Section 102 of the National Environmental Policy Act (NEPA) as implemented by the regulations promulgated by the Council on Environmental Quality (40 Code of Federal Regulations Parts 1500-1508 and USACE Engineering Regulation 200-2-2) to analyze the potential comprehensive environmental consequences resulting from the implementation of proposed levee remediation, flood risk management, ecosystem restoration, recreation enhancement, and other proposed projects in and around the Dallas Floodway, in Dallas, TX.

The USACE is preparing the DEIS in response to the authority contained in the United States Senate Committee on Environment and Public Works Resolution dated April 22, 1988, and Section 5141 of the Water Resources Development Act WRDA of 2007. The USACE must determine the technical soundness and environmental acceptability of the authorized project, levee remediation plans and other

projects that are being proposed within and adjacent to the Dallas Floodway.

The study area is located in and adjacent to the Dallas Floodway along the Trinity River, in Dallas, TX. The study area includes the area bound by the Loop 12 crossing of the Elm Fork and the I-30 crossing of the West Fork (river mile 505.50) to the southeastern edge of the Central Wastewater Treatment Plant on the Trinity River (river mile 494.63), as well as areas to the east and west of the Dallas Floodway to incorporate drainage basins associated with the east and west levee interior drainage systems. The study area encompasses approximately 36,292 acres.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding the Dallas Floodway Projects EIS, please contact Mr. Jeffry Tripe, Regional Technical Specialist, U.S. Army Corps of Engineers, Fort Worth District, P.O. Box 17300, Fort Worth, TX, 76102-0300, (817) 886-1716, or via e-mail at [Jeffry.A.Tripe@usace.army.mil](mailto:Jeffry.A.Tripe@usace.army.mil).

**SUPPLEMENTARY INFORMATION:** The Dallas County Levee Improvement District (DCLID) constructed the original Dallas Floodway levees between 1928 and 1931. The DCLID rerouted the Trinity River by constructing a channel within the leveed floodway and filled the original river channel or used it for sump storage. In the mid-forties, major floods, compounded by continued urbanization in the watershed, resulted in increased drainage into the Dallas Floodway and severe flooding. To reduce flooding within the Dallas Floodway project area, Congress authorized the Dallas Floodway flood control project in 1945 and 1950. This resulted in several USACE improvements to the Dallas Floodway, completed in 1958.

The existing Upper Trinity River Feasibility Study (UTRFS) serves as an umbrella study to all USACE projects in the basin. The USACE initiated the UTRFS in response to the authority contained in the United States Senate Committee on Environment and Public Works Resolution dated April 22, 1988. This authorizing legislation for the overall study defines the area of investigations as the Upper Trinity River Basin, with specific emphasis on the Dallas-Fort Worth Metroplex. The UTRFS identified approximately 90 potential projects addressing flood risk management, ecosystem restoration, and recreation within the study area.

In May 1996, acting as the non-Federal sponsor on the on-going UTRFS, the North Central Texas Council of Governments coordinated with the

<sup>7</sup> 16 U.S.C. 19(a).

USACE and City of Dallas to modify the UTRFS Cost Sharing Agreement to include an Interim Feasibility Study of the existing Dallas Floodway as part of the on-going UTRFS. The team assessed several flood risk management alternatives in the Dallas Floodway Interim Feasibility Study. The USACE and City of Dallas also developed additional environmental quality alternatives to benefit fish and wildlife habitat, water quality, and aesthetic properties while minimizing adverse impacts to existing cultural resources and flood risk management benefits. On November 29, 2005, the USACE published a Notice of Intent (NOI) in the **Federal Register** (70 FR 71477) to prepare a DEIS for proposed modifications to the existing Dallas Floodway based on the Interim Feasibility Study and held a public scoping meeting on December 13, 2005. The USACE stopped the NEPA process in early 2006 in order to conduct further study and alternative development and connectivity to other projects in the vicinity.

The City of Dallas continued developed of another variation to the Trinity River Corridor Master Implementation Plan that included similar environmental quality measures and interior drainage system improvements, known as the BVP. The 2007 WRDA authorized the City of Dallas, Dallas Floodway BVP. This authorization superseded the need to continue development of the Interim Feasibility Study and allowed implementation of the BVP and interior drainage system components if the USACE determines they are technically sound and environmentally acceptable. On December 22, 2008, the USACE published a NOI in the **Federal Register** (73 FR 78377) to prepare a Draft EIS for the Dallas Floodway BVP. Due to the large number of other proposed projects being requested by local entities, the USACE suspended the NEPA process in March 2009. The intent to conduct a comprehensive analysis of all proposed Dallas Floodway projects was initiated to better assess impacts to the environment and risk to flood protection.

This NOI announces the USACE's intent to initiate the NEPA process for a comprehensive analysis of potential Dallas Floodway Projects. Projects that are currently proposed to be assessed in the USACE Dallas Floodway Project include: City of Dallas levee remediation plans; USACE and City of Dallas 2007 WRDA projects that include the BVP, flood risk management, and interior drainage plans; and other proposed projects within the Dallas

Floodway such as the proposed Trinity Parkway Tollway and various bridge and utility improvement projects.

Proposed BVP alternatives for ecosystem restoration and recreation enhancement will be developed and evaluated based on ongoing fieldwork and data collection and past studies conducted by the Corps of Engineers, the City of Dallas, and regulatory agencies. Ecosystem restoration actions that will be evaluated in the DEIS include creating meanders within the Trinity River, restoring, protecting and expanding the riparian corridor, improving aquatic habitat, creating riffle-pool complexes, and constructing wetlands. Recreation measures that will be evaluated include the West, Natural, and Urban lakes, terraced playing fields, multipurpose trails, whitewater facilities, pedestrian bridges, utilities, parking facilities, amphitheaters, promenade, concession pads, boat/canoe access points, and passive recreation features, such as interpretive guidance, media, and picnic areas. Recreation measures will be developed to a scope and scale compatible with proposed ecosystem restoration measures without significantly diminishing ecosystem benefits.

Proposed USACE and City of Dallas alternatives to address existing Dallas Floodway flood risk management and interior drainage concerns will be evaluated from both a non-structural and structural perspective. Non-structural measures that will be evaluated include acquisition and removal of structures or flood proofing of structures for protection from potential future flood damage. Structural measures that will be evaluated include levee height modification by fill or addition of flood walls, changes in interior drainage by enlarging storage areas or increasing widths and depths, removal of the existing AT&SF Bridge, and/or a combination of these measures.

The USACE performed a periodic inspection of the Dallas Floodway in early December 2007 and documented significant deficiencies. The findings resulted in unacceptable ratings for the Dallas Floodway. In addition to numerous unacceptable ratings, the results of the inspection identified negative impacts during base flood (100-year event) conditions, which would jeopardize performance of flood protections to function as authorized. This is a significant concern that may have a substantial negative impact on Federal Emergency Management Authority (FEMA) flood mapping of the areas outside the levees and the residents and businesses protected by

those levees. An assessment of proposed levee remediation plans and potential impacts will be performed in the DEIS.

In addition to levee remediation and flood risk management projects and concerns, there are several Section 408 projects proposed for the Dallas Floodway. Under the terms of 33 U.S. Code (USC) 408, any proposed levee modification requires a determination by the Secretary of the Army that the proposed alteration, permanent occupation, or use of a Federal project is not injurious to the public interest and will not impair the usefulness of the levee. The authority to make this determination and approve modifications to Federal works under 33 USC 408 has been delegated to the Chief of Engineers, USACE. Thus, the USACE will consider and evaluate identified Section 408 projects in conjunction with the authorized WRDA and levee remediation projects in order to determine the potential environmental consequences of all proposed actions in the Dallas Floodway Project study area.

The USACE will conduct coordination with the public and agencies to ensure full and open participation and aid in the development of the DEIS. The USACE requests that all affected Federal, state, and local agencies, affected Indian tribes, and other interested parties participate in the NEPA process. The USACE invites the public to participate in the EIS scoping process and review of the DEIS. A scoping meeting is scheduled for Tuesday, November 17, 2009 at the Dallas Convention Center (650 S. Griffin Street, Dallas, Texas) from 6 p.m. until 9 p.m. The USACE will inform all known interested individuals as well as announce the meeting dates and locations in local news media. The USACE will announce the release of the DEIS for public comment and the subsequent public review meeting date in the local news media upon completion of the DEIS. The NOI, DEIS, and other project related information will also be available for review at USACE Web sites.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

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## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

#### Board on Coastal Engineering Research

AGENCY: Department of the Army, DoD.