

Public Notice Response and Environmental Impact Statement (EIS) Request

Name: **Citizens Organizing for Resources and Environment (CORE)**

Mailing Address: P.O. Box 86, Ravenna, TX 75476

Phone: 903-583-4951

Email: info@texomacore.org

Applicant & Permit Number: NTMWD (North Texas Municipal Water District) Application # 12151 to build a dam on Lower Bois d' Arc Creek

U.S. Army Corps of Engineers, Tulsa District Public Notice No. SWT-0-14659

We hereby request an Environmental Impact Statement (EIS) on the project to build a dam on Lower Bois d'Arc Creek because we have several concerns and questions that an EIS could answer for our members:

1) There are landowners and farmer/ranchers whose farms are located in Fannin County within the large area of Bois d' Arc Creek drainage that would be negatively impacted by the Proposed Lower Bois d' Arc Creek Reservoir. The livelihood of several landowners could be significantly impacted and possibly lost to the building of this reservoir. It is projected to cover over and ruin 16,526 acres of prime timber, crop, and ranch land. Also, 5,574 acres will be obtained for the flood pool.¹ As a result, 22,100 acres will be destroyed or rendered unusable for terrestrial wildlife and agricultural purposes by the reservoir. Also, the approximately 30,000 acres for mitigation (1.8 times the conservation pool --- still yet to be determined) raises many questions and concerns. We believe a project of this magnitude justifies an Environmental Impact Statement as necessary to address the major issues facing the citizens of Fannin County, Texas.

2) Is an EIS necessary for this project? Who is providing the funds for the EIS? Who is the third party EIS investigators? Who will the EIS Investigators answer to?

3) What is the actual purpose intended for this reservoir? Is it to be for water supply, flood control, fishery habitat, recreation, and/or for maintaining Lake Lavon at a constant level for development? What is the proposed productive lifespan of this project?

4) Will there be increased flooding upstream of the reservoir on Bois d' Arc Creek, Sloans Creek, and Bullards Creek due to the decreased flow provided by the reservoir coupled with the damming effects stated in the NTMWD application of the Highway 82 and Highway 56 bridges?

It concerns our organization that there is a high probability this reservoir will flood Sloans Creek --- a very productive tributary of Bois d' Arc Creek --- which would negatively impact neighboring landowners.

¹ NTMWD informational pamphlet "Land for a New Reservoir"

5) Should the estimated flood pool level of this reservoir be increased, or is it sufficient to account for the flooding that occurs in the current creek basins, especially south of the Highway 82 bridges?

6) We are particularly concerned that this reservoir is very likely unnecessary because NTMWD has numerous other water resources that could be tapped if the infrastructure (i.e. pipelines, pump stations, etc.) were built. Why isn't reuse or recycle water being looked at as a water source? What are the true estimated costs of these alternatives?

7) NTMWD doesn't seem to have demonstrated the highest and best level of conservation measures as required by the Texas Private Property Rights Protection Act. Per capita use of water in the NTMWD service area near Dallas, TX, is around 260 gal/day, while Austin, TX, is at 200 gal/day and San Antonio, TX, is around 130 gal/day. If Austin and San Antonio have much lower per capita water usage, NTMWD must not be practicing the highest and best level of conservation measures as required by the Texas Private Property Rights Protection Act. Why is this the case?

8) We are also concerned with fair landowner compensation and affects on the Fannin County tax base, neither of which have been openly and equitably addressed by the NTMWD or other agencies involved. The "I'm not sure" or "We don't know yet" or "It will be properly handled" are not adequate responses for those county residents who stand to be heavily impacted by this proposed reservoir. We believe all land impacted by the reservoir project, the pipelines proposed, or the resulting mitigation lands must be identified and negotiated in-good-faith between the landowners and NTMWD before construction of the project can begin. In the event this project is actually begun, we believe that all landowners displaced by any of the reservoir activities or associated activities should have the relocation costs of all their property and personal affects covered by NTMWD --- outside of the land purchase price. Also, would NTMWD be willing to buy entire farms, not just partial farms, from all willing landowners whose property adjoins any portion of the flood pool for a negotiated good-faith price so that these farmers can move their entire farming operation to another location if lake construction is eminent? These entire properties could then be utilized for mitigation lands.

9) NTMWD is in the process of purchasing the entire 14,000-plus acre Riverby Farm in Northeast Fannin County, several miles below the proposed reservoir dam. What is the land-use intent for this property? If it is for mitigation, according to local sources only a percentage of this property will meet the mitigation requirements. How much more land is needed to meet mitigation requirements? Where will the required mitigation land be located?

10) We believe it needs to be brought to the regulating agency's attention that at least three municipal sewage systems will discharge into the proposed reservoir, and that the now closed City of Bonham Landfill on County Road 2935 leaches and drains into Sloans Creek approximately 1.5 miles upstream of the proposed reservoir site. Also, an old pesticide plant site leaches arsenic into Powder Creek (a tributary of Bois d' Arc Creek) in South Bonham. We are very concerned about these sites polluting the water supply in Bois d' Arc Creek, and thus polluting the proposed reservoir.

11) It concerns our organization that this project will displace hundreds of people, many from family farms and ranches that have been in the same family for over 140 years. Homes, farms,

churches, cemeteries, and historical sites will be destroyed. Projected impact on rural and agricultural areas will be high.²

12) It concerns our organization that this reservoir could have a huge negative impact on the agriculturally based local economy. With over 52,000 acres of land out of production, local crop and beef production will plummet. Agricultural revenues will shrink, supporting businesses will fail, and the population will decrease. With no new large industries coming to the area in the foreseeable future to take the place of lost farm and ranch jobs, unemployment will swell. In addition to those already forced to leave due to the loss of their land, many will be forced to leave the area to find work, resulting in further population decreases. Fannin County will be caught in a downward spiral of failing businesses, high unemployment, and shrinking population. Some suggest that the landowners affected will relocate to other areas of the county, but not if like-kind land is unavailable there to support their agricultural or wildlife enterprises. What will be the exact impact of this reservoir on the local agricultural-based economy in Fannin County and surrounding counties?

13) It concerns our organization that this project will displace wildlife from the flooded area where they will have to compete for habitat in the mitigated land with existing wildlife. Species that had 52,000 acres as their habitat will have their habitats reduced to the 30,000 acres of mitigated land. This will affect hundreds of species, some of them threatened such as the Eastern Black Bear, Timber Rattlesnake, possibly the Red Wolf, and American Burying Beetle. A report on the population of American Burying Beetles found in Lamar County, 35 miles east of this proposed project, is included with these concerns. We would propose that Dr. William B. Godwin, a independent consultant/biologist, who conducted the study for the Texas National Guard at Camp Maxey near Powderly, TX, be contacted to do a study here in Fannin County, TX, in the proposed reservoir area. His cell phone number is 1-936-556-2289. The projected impact on the environment is medium high.³ What will the impact of this reservoir be on all of these wildlife species and migratory waterfowl? Will it be detrimental to all of these species? Will the construction of this reservoir force the wild hog population residing in the Bois d' Arc Creek basin into other areas of Fannin County to become a nuisance?

14) It concerns our organization that property taxes for the remaining residents will skyrocket. The cost of running the county will not appreciably decrease. However, the tax base will be negatively impacted when 52,000 acres of farms, ranches, and residences are removed from the tax rolls. The remaining people will have to shoulder the burden, or will be forced to relocate to an area with a lower cost of living. Fannin County would also no longer be looked at favorably as a retirement location, as it is now.

15) It concerns our organization that Bois D'Arc Creek is an ill-suited site for a reservoir. The fall of Bois D'Arc Creek bottom is on average 3.5 feet per mile moving from the southwest to the northeast. As a result, a 20 foot drop in the lake level would result in the western shore receding 5.7 miles. A 20 foot drop in lake level during a dry summer would not be uncommon. As recently as December 28, 2006, Cooper Lake was 18 feet below conservation pool level⁴. We have no reason to believe that the Bois D'Arc Reservoir would be any different. North Texas Municipal Water District has projected

² 2006 Region C Water Plan, Table 4D.2

³ 2006 Region C Water Plan, Table 4D.2

⁴ Fort Worth District Corps of Engineers Reservoir Report for 12/28/2006

3,200 new waterfront and near waterfront homes to be constructed in 30 years.⁵ The problem will be attracting 3,200 people to buy these homes that are located on a 5.7 mile long mud flat. Any structure that is built above the 100 year flood buffer zone as required, will very rarely, if ever, be in sight of anything resembling a lake. In reality, very few of these homes will ever be built, and the economic benefits never realized due to the poor quality of the reservoir. Also, the impacts on the Bois d'Arc Creek flood-plain and water flows have not been adequately addressed! Will they be?

16) It concerns our organization that this lake is supposedly being proposed not only for water supply, but for recreational purposes. Does Fannin County have the infrastructure needed for this lake to provide recreation? What will be the cost of the infrastructure that may need to be built? Who would provide the funds for this infrastructure?

17) It concerns our organization that NTMWD has purchased over 600 acres of land near Leonard Texas with no stated purpose that justifies this amount of property. Does the proposed water treatment facility/pumping station require 600 acres of land? We know of no other municipal water treatment plant in or near the DFW area that requires a footprint of 600 acres. What will be the environmental impact of this plant, near Leonard? What are the proposed plans for this site? What will be the impact on the environment and the local economy of the proposed water pipeline from Lower Bois d'Arc Creek Reservoir to the Leonard site. NTMWD is proving itself to be somewhat unwilling to consider land-owner concerns or input at the Heard Wildlife Sanctuary near McKinney, TX, where they are proposing a waste water pipeline. How can NTMWD be trusted based on these actions?

18) Can a thorough baseline water quality survey be done to determine current water quality at the site? Recently NTMWD announced a change in reservoir design to include a road acting as a coffer dam to slow inflow and silting-in of the main reservoir depths --- crossing the midpoint of the proposed reservoir north of Lannius, TX. How will this structure change water depth, inflow, and back-flow, upstream of this structure? Won't this increase flooding potential above the flood-plain currently being considered by NTMWD. How will this impact landowners and the environment around the reservoir and in this flood-plain who could end up experiencing increased flooding and longer termed flooding on their flood-plain property? If NTMWD wasn't worried that this reservoir is already shallow and could silt-in while being a poor yielder and shortening the production span of this project, why would they be proposing a change as dramatic as this in the reservoir design?

19) What will be the impact of county zoning around the reservoir perimeter on the county economy and private property rights?

20) What is the historical water-flow baseline within the Bois d' Arc Creek drainage used for this reservoir's projected yield --- i.e. for the past 10, 20, 30 or 60 years?

21) We are concerned about the impact of this reservoir on the current groundwater well systems serving the county populous. Will deep-well water systems within Fannin County and surrounding counties be required to move to surface water from the reservoir as a water supply? Where are the recharge zones for the aquifers tapped by water well systems in the area?

⁵ NTMWD informational pamphlet "Positive Economic Growth"

We sincerely believe that an Environmental Impact Statement for this project is justified and should be completed --- to address the numerous concerns we have listed above as well as those submitted by other people concerned about this project. Fannin County citizens are owed the explanations and information that only an Environmental Impact Statement can provide. When a proposal is presented that would remove some 20,000 to possibly 50,000 acres from the tax rolls and out of private land management, all proper procedures and analyses must be done. We believe that private land ownership is managed better, in general, than public land ownership, and definitely contributes much more to the local economy. We hope that an EIS can aid in getting these concerns addressed and provide us truthful and evidence-backed answers to our questions.

So, Citizens Organizing for Resources & Environment (CORE), hereby requests an Environmental Impact Statement on NTMWD permit number 12151 and US Army Corps of Engineers Public Notice Number SWT-0-14659.



Signed January 4, 2010

By Nathan B. Melson, President Paula D. Brennecke, Secretary
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on behalf of the

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