

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Final Regulations (40 CFR Parts 1500 through 1508), and the United States Section, International Boundary and Water Commission's (USIBWC) Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981 (46 FR 44083); the USIBWC hereby gives notice of availability of the Draft Environmental Assessment and Draft FONSI for Flood Control Improvements to the Arroyo Colorado Floodway, which is part of the interior floodways in the Lower Rio Grande Flood Control Project.

FOR FURTHER INFORMATION CONTACT: Rita Crites, Environmental Protection Specialist, Environmental Management Division, United States Section, International Boundary and Water Commission; 4171 N. Mesa, C-100; El Paso, Texas 79902. Telephone: (915) 832-4781; e-mail: rfcrites@ibwc.gov.

DATES: The Draft EA and Draft FONSI will be available April 27, 2009.

SUPPLEMENTARY INFORMATION:

Background

The Arroyo Colorado is an ancient distributary of the Rio Grande, and it serves as drainage for crop irrigation, municipal wastewater returns, and as a floodway during periods of heavy precipitation in the Lower Rio Grande Valley. The project area includes 2.1 miles of the Divisor Dike, and approximately 8.4 miles of the Arroyo Colorado north levee.

The USIBWC prepared this EA for the proposed action to increase flood containment capacity of the Arroyo Colorado Levee System by raising the elevation of this segment for improved flood protection. This action will also address the 100-year flood protection criteria established by the Federal Emergency Management Agency (FEMA).

The beginning of this project is at the Divisor Dike near the juncture point of the Arroyo Colorado and the North Floodway in Hidalgo County and the ending is at White Ranch Road in Cameron County, Texas.

The proposed levee rehabilitation improvements consist of: (1) Raising the top-of-levee elevation, (2) conducting geotechnical investigations and testing to determine the type and extent of any required remediation improvements due to slope stability, seepage, levee settlement, and any other geotechnical issues that may cause levee failure during a 100-year flood event and (3)

modifying, if necessary, hardware or structures located along the levee reaches. Any modifications will be in compliance with the Texas Historical Commission recommendations. The top elevation of the levee-raising improvements will be to provide containment of flood flows with a minimum freeboard of 3 feet for water surface elevations as calculated in the USIBWC 2003 Hydraulic Model for the LRGFCP. Raising on the riverside of the levee will be the most probable alternative given the nature of the right-of-way in the area.

Alternatives

The USIBWC completed an EA of the potential environmental consequences of raising the Arroyo Colorado Floodway to meet current requirements for flood control. The EA, which supports the Finding of No Significant Impact, evaluated the Proposed Action and No Action Alternative.

Availability

Single hard copies of the Final Environmental Assessment and Final Finding of No Significant Impact may be obtained by request at the above address. Electronic copies may also be obtained from the USIBWC Home Page at <http://www.ibwc.gov/home.html>.

Dated: April 17, 2009.

Robert McCarthy,
General Counsel.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on April 20, 2009, a proposed Consent Decree in *United States of America et al. v. E.I. du Pont de Nemours & Co., and Lucite International, Inc.*, Civil Action No. 2:09-0385 was lodged with the United States District Court for the Southern District of West Virginia.

In this action the United States, on behalf of the Administrator of the United States Environmental Protection Agency, sought injunctive relief and civil penalties under Section 113(b) of the Clean Air Act ("Act"), 42 U.S.C. 7413(b), for alleged violations at a sulfuric acid regeneration plant ("Plant") owned by Lucite and operated by DuPont in Belle, West Virginia. The Complaint alleged violations of: (1) The Prevention of Significant Deterioration provisions of the Act, 42 U.S.C. 7470-92; (2) the New Source Performance Standards of the Act, 42 U.S.C. 7411; (3)

the Title V Permit requirements of the Act, 42 U.S.C. 7661-7661f; and (4) the federally approved and enforceable state implementation plan which incorporates and/or implements the above-listed federal regulations.

The Consent Decree resolves the United States's Clean Air Act claims at the Plant by requiring that Defendants: (i) Pay a civil penalty of \$2,000,000, to be split evenly with the State of West Virginia; and (ii) cease operations at the Plant by April 1, 2010, and surrender all air permits to the State. This settlement reflects the fact that Defendants have decided, for independent business reasons, to shut the Plant.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States of America et al. v. E.I. du Pont de Nemours & Co., and Lucite International, Inc.*, Civil Action No. 2:09-0385 (S.D. WV), D.J. Ref. 90-5-2-1-09251.

The Decree may be examined at U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103. During the public comment period, the Decree may also be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$23.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,
Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.
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