

resilience of communities, critical infrastructure, and the natural environment. The study is needed because the study area experiences frequent flooding from high tides, spring tides, sunny day flooding, and coastal storms; is considered at high risk to coastal storm flooding with an associated threat to life safety; includes a degraded back bay ecosystem; and is susceptible to relative sea level change.

On 5 February 2020, the NCBP CSRM Feasibility Study was granted an exemption from the requirement to complete the feasibility study within 3 years; required in Section 1001(a) of the Water Resources Reform and Development Act of 2014. The exemption was contingent on re-scoping the study to focus on critical infrastructure and highly vulnerable areas outside of Coastal Barrier Resources Act units. As a result, storm surge barriers are no longer under consideration at any of the inlets to the back bays from the Atlantic Ocean. The original NOI was withdrawn on June 8, 2020 (85 FR 35801) due to the need to re-scope and align updated schedules consistent with E.O. 13807. The NEPA coordination/review schedule for the re-scoped study is being aligned and coordinated with the appropriate Federal and state resource agencies, as required by E.O. 13807. This includes cooperating agencies that have statutory jurisdiction over the review process for any action being contemplated in the course of the feasibility study and development of the EIS.

Acknowledging the complex analyses required to comprehensively reevaluate the study area considering the influence of the Atlantic Ocean shorefront conditions on the back-bay system and the potential for large-scale marine construction to implement flood protection measures, an EIS will be prepared. The EIS will build upon the extensive Atlantic shoreline alternatives analysis and environmental and technical studies and outreach conducted to date. The scope of analysis will be appropriate to the level of detail necessary for an EIS and will receive input from the public and reviewing agencies. The analysis will provide the basis for the alternatives to problems associated with storm surge and wave damage along the back-bays. Public, agency and stakeholder comments and feedback will continue to be accepted at any time during the feasibility study and preparation of the EIS.

## 2. Study Area

The study area includes all of the tidally influenced bays and estuaries within Nassau County, New York,

located on Long Island, NY, that are hydraulically connected to the south shore of Nassau County, directly east of Queens County and west of Suffolk County for approximately 98 square miles.

## 3. Corps Decision Making

As required by Council on Environmental Quality's Principles, Requirements and Guidelines for Water and Land Related Resources Implementation Studies (2013), alternatives to the proposed Federal action that meet the purpose and need will be considered in the EIS. These alternatives will include no action and a range of reasonable alternatives for managing flood risk within the Nassau County Back Bays Area. The measures to be evaluated will consider applicable public stakeholders and agency coordination received since the study commenced in 2017, and through future outreach efforts. Coordination early in the process identified concerns and potential impacts, relevant effects of past actions, and possible alternative actions that were pivotal in defining the re-scoped study. The decision making approach will allow time to address agency policy issues and build consensus among cooperating agencies and the public.

## 4. Scoping/Public Participation

Prior scoping meetings were held in May 2017 and June 2019. At this time, additional scoping meetings are not scheduled. However, input can be provided to the contacts identified here within, at any time during the feasibility study and preparation of the EIS. Public meetings will be conducted during the public review period of the draft EIS.

## 5. Lead and Cooperating Agencies

The Corps is the lead federal agency and the New York Department of Environmental Conservation (in partnership with Nassau County, NY) is the nonfederal sponsor for the study and the preparation of the EIS in meeting the requirements of the NEPA and its Implementing Regulations of the President's Council on Environmental Quality (40 CFR 1500-1508). The U.S. Fish and Wildlife Service (FWS), the National Oceanic and Atmospheric Administration (NOAA), the Federal Emergency Management Agency (FEMA), and the U.S. Environmental Protection Agency (EPA) have been identified as cooperating agencies. The preparation of the EIS will be coordinated with New York State and Nassau County offices with discretionary authority relative to the proposed actions. The Draft Integrated

Feasibility Report/EIS is currently scheduled for distribution to the public in 2021.

Dated: September 4, 2020.

**Karen J. Baker,**

*Programs Director, North Atlantic Division.*

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## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### Withdrawal of the Notice of Intent To Prepare an Environmental Impact Statement for the Upper Susquehanna River Basin, New York, Comprehensive Flood Damage Reduction Feasibility Study

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

**ACTION:** Notice of intent; withdrawal.

**SUMMARY:** The U.S. Army Corps of Engineers (USACE), Baltimore District, is notifying interested parties that it has withdrawn the notice of intent (NOI) to develop an EIS for the proposed Upper Susquehanna River Basin, New York, Comprehensive Flood Damage Reduction Feasibility Study.

**DATES:** The notice of intent to prepare an EIS published in the **Federal Register** on April 4, 2016 (81 FR 76936), is withdrawn as of September 10, 2020.

**ADDRESSES:** U.S. Army Corps of Engineers, Baltimore District, Planning Division, Civil Project Development Branch (CENAB-PL-CPD), 2 Hopkins Plaza, Baltimore, MD, 21201.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding the withdrawal of this NOI should be addressed to Mr. Charles Leasure, telephone 410-962-5175; email address: *charles.w.leasure@usace.army.mil*.

**SUPPLEMENTARY INFORMATION:** The study was authorized by a Resolution of the House Committee on Transportation and Infrastructure, on 24 September 2008. The USACE undertook the study in partnership with the New York State Department of Environmental Conservation (NYSDEC). The study investigated structural and non-structural flood-risk management (FRM) strategies and projects to reduce flood risk. The study resulted in no viable flood risk management economically justified alternatives that could be implemented through federal policies. Based on these findings, USACE has concluded that construction of a federal FRM project by USACE is not recommended under this study

authority. Several recommendations were included in a report to the sponsor for potential further consideration through other USACE programs.

Dated: September 4, 2020.

**Karen J. Baker,**

*Programs Director, North Atlantic Division.*

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## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### Notice of Intent To Prepare an Environmental Impact Statement for an Easement to Cross Under Lake Oahe, North Dakota for a Fuel-Carrying Pipeline Right-Of-Way for a Portion of the Dakota Access Pipeline

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

**ACTION:** Notice of intent.

**SUMMARY:** This notice advises the public that the U.S. Army Corps of Engineers (Corps), as lead agency, will prepare an environmental impact statement (EIS) pursuant to court order to evaluate granting an easement to Dakota Access, LLC to cross federal land administered by Corps for the Oahe Dam and Reservoir Project on the Missouri River. This notice opens the public scoping phase and invites interested parties to identify issues and reasonable alternatives to the proposed action that should be considered in the EIS.

**DATES:** To ensure consideration during the EIS process, written comments on the scope of the EIS must be received no later than October 26, 2020. Due to the ongoing coronavirus (COVID-19) pandemic, virtual scoping meetings will be held in lieu of in-person scoping meetings. Virtual scoping meetings will be held on October 15 and 16, 2020. Additional information is included under "Public Scoping."

**ADDRESSES:** Scoping comments can be submitted by mail or email. Please do not submit comments on USB, hard drive, or other portable storage devices.

Scoping comments can be mailed to: U.S. Army Corps of Engineers, Omaha District, ATTN: CENWO-PM-A-C (DAPL NOI), 1616 Capitol Avenue, Omaha, NE 68102.

Scoping comments can also be emailed to: [NWO-DAPL-EIS@usace.army.mil](mailto:NWO-DAPL-EIS@usace.army.mil).

If emailing comments, please use "Scoping Comments, Dakota Access Pipeline Crossing" as the subject of your email.

**FOR FURTHER INFORMATION CONTACT:** Heath Kruger, U.S. Army Corps of Engineers at (402)-995-2036 or by email at: [NWO-DAPL-EIS@usace.army.mil](mailto:NWO-DAPL-EIS@usace.army.mil).

**SUPPLEMENTARY INFORMATION:** On July 25, 2016, the Corps granted permission to applicant Dakota Access, LLC, under Section 14 of the Rivers and Harbors Act of 1899, 33 U.S.C. 408 (408 permission), for a proposed pipeline crossing under Lake Oahe approximately 0.5 miles upstream of the northern boundary of the Standing Rock Reservation. The approximately 1,172-mile pipeline connects the Bakken and Three Forks oil production areas in North Dakota to an existing crude oil market near Patoka, Illinois.

The 408 permission was supported by a Finding of No Significant Impact (FONSI) based on an Environmental Assessment (EA), as contemplated under the National Environmental Policy Act (NEPA). This EA/FONSI was completed on July 25, 2016, the date that the Corps granted the 408 permission. On February 8, 2017, the Corps granted an easement, with conditions, to cross federal property administered by the Corps at Lake Oahe, North Dakota. The Corps granted the easement under the Mineral Leasing Act (MLA), 30 U.S.C. 185. The easement allowed for the installation, construction, operation, maintenance, repair, replacement and termination of a thirty-inch diameter horizontal directional drill buried oil pipeline for the purpose of transporting crude oil, and related facilities, at or under Lake Oahe Project in North Dakota, with a 50-foot wide width plus the ground occupied by the pipeline and related facilities. Operation of the pipeline began on June 1, 2017.

On March 25, 2020, the District Court for the District of Columbia ordered the Corps to prepare an EIS for this portion of the pipeline because the pipeline's "effects on the quality of the human environment are likely to be highly controversial." *Standing Rock Sioux Tribe v. U.S. Army Corps of Eng'rs*, No. 1: 16-cv-01534, Memorandum Opinion (D.D.C. March 25, 2020), ECF No. 496.

The proposed crossing of Corps-administered federal property requires the grant of a right-of-way (easement) under the MLA. Comments are invited to assist in identifying the scope of potentially affected environmental, social, and economic issues relevant to the potential grant of an easement and determining if there are reasonable alternatives to be considered in the EIS.

Consistent with the Court's decision, Dakota Access, LLC seeks an easement

from the Corps for the original proposed project whose construction was completed on June 1, 2017. A decision on whether to authorize the pipeline to cross Lake Oahe at the proposed location would be based on: (1) The July 25, 2016, EA/FONSI; (2) the Corps' August 31, 2018, analysis on remand from a decision by the District Court; and (3) additional analysis developed through this EIS.

**Scoping Process:** As the lead federal agency, the Corps will also coordinate with the public, other state and local agencies, and Tribes in order to evaluate the range of actions, alternatives, and impacts of the proposed project. Consistent with the Council on Environmental Quality (CEQ's) NEPA implementing regulations, we anticipate that an EIS will analyze the following possible alternatives:

(1) No action alternative, where the Corps would not grant an easement and would require restoration of the Corps-administered federal lands to pre-pipeline construction conditions;

(2) The Corps would not grant an easement and would take no further action;

(3) The Corps would grant the requested easement with the same conditions as the vacated easement; and

(4) The Corps would grant the requested easement with additional conditions beyond those in the vacated easement.

As part of this notice, the Corps requests input on any additional potential alternatives.

**Public Scoping:** This notice also serves to inform the public that virtual public scoping meeting will be held during the 45-day scoping period. Virtual scoping meetings will be held on October 15 and 16, 2020 from 6:00 p.m. to 9:00 p.m. central time on each day. The meeting information can be accessed at <https://go.usa.gov/xG2Pt>. The Corps will use the comments received to assist in identifying the significant issues which should be addressed in the EIS.

**Public Comment Availability:** Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment that your personal identifying information be withheld from public review, the