

5 found no injured or dead marine mammals.

An observer from the Moss Landing Marine Laboratory conducted a pre-event survey on July 3 for the City of Monterey's Independence Day Fireworks and enumerated 394 California sea lions, two sea otters (*Enhydra lutris*), and 10 harbor seals. Post-event monitoring on July 5 revealed no injured or dead marine mammals.

Observers monitored the Pillar Point Harbor area for the Half Moon Bay Independence Day Fireworks on July 3 and recorded two harbor seals. Post-event monitoring on July 5 revealed no injured or dead marine mammals.

The Pacific Grove Feast of Lanterns Fireworks display consisted of enumerating all marine mammals within 400 meters of the fireworks launch site (survey area). On July 25, observers reported the presence of two sea otters within the survey area and more than 200 harbor seals outside of the survey area. A post-event monitoring survey found no injured or dead animals.

Finally, pre-event monitoring of the Monte Foundation Fireworks Display on October 10 found two harbor seals and one to two dozen California sea lions 500 yards offshore the Seaciff Beach area. On October 12, the observers reported that there were no injured or dead marine mammals.

In summary, the total number of potentially harassed California sea lions (406) and harbor seals (14) for all fireworks displays, was well below the authorized limits as stated in the final rule (71 FR 40928, July 19, 2006).

No dead or injured marine mammals were reported for any of the events. Hence, these monitoring results support NMFS' initial findings that fireworks display will result in no more than Level B behavioral harassment of small numbers of California sea lions and harbor seals and that the effects will be limited to short term behavioral changes, including temporary abandonment of haul-out areas to avoid the sights and sounds of commercial fireworks.

#### Authorization

NMFS has issued an LOA to MBNMS authorizing the Level B harassment of marine mammals incidental to the coastal commercial fireworks display within the Sanctuary. Issuance of this LOA is based on the results of the MBNMS 2008 monitoring report which verify that the total number of potentially harassed sea lions and harbor seals was well below the authorized limits as stated in the final

rule (71 FR 40928, July 19, 2006). Based on these findings and the information discussed in the preamble to the final rule, the activities described under this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses. No mortality or injury of affected species is anticipated.

Dated: June, 19, 2009

**James H. Lecky,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

#### **Intent To Prepare an Environmental Impact Statement on an Application for a Department of the Army Permit Under Section 404 of the Clean Water Act by The Sabine Mining Company for the Construction, Operation, and Reclamation of the South Hallsville No. 1 Lignite Mine—Rusk Permit Area, Rusk, Panola, and Harrison Counties, 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, Fort Worth District (USACE) has received an application for a Department of the Army permit under Section 404 of the Clean Water Act (CWA) from The Sabine Mining Company (SMC) to construct, operate, and reclaim the South Hallsville No. 1 Lignite Mine—Rusk Permit Area. In accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the USACE has determined that issuance of such a permit may have a significant impact on the quality of the human environment and, therefore, requires the preparation of an Environmental Impact Statement (EIS).

The USACE intends to prepare an EIS to assess the environmental, social, and economic effects of issuance of a Department of the Army permit under Section 404 of the CWA for discharges of dredged and fill material into waters of the United States (U.S.) associated with the construction of the proposed surface lignite mine. In the EIS, the USACE will assess potential impacts associated with a range of alternatives.

**DATES:** A public scoping meeting will be held on Tuesday, July 7, 2009, from 5 p.m. to 8 p.m. The purpose of this meeting is to disseminate information about the proposed project and its potential effects to the human environment, and to seek public comments on the scope of the proposed project.

**ADDRESSES:** The public scoping meeting will be held at the Tatum Middle School, 410 North Hill, Tatum, Texas.

**FOR FURTHER INFORMATION CONTACT:** For further information and/or questions about the proposed action and EIS, please contact Ms. Jennifer R. Walker, Regulatory Permits Section Chief, by letter at Regulatory Branch, CESWF—PER—R, U.S. Army Corps of Engineers, P.O. Box 17300, Fort Worth, TX 76102—0300 or by telephone at (817) 886—1863.

#### **SUPPLEMENTARY INFORMATION:**

1. *Description of the Proposed Project:* The proposed South Hallsville No. 1 Lignite Mine—Rusk Permit Area would be located approximately 1 mile north of the City of Tatum, Rusk County, Texas. The approximately 20,377-acre mine site would recover approximately 130 million tons of lignite during the 30-year life of the mine, for sole use at the existing H.W. Pirkey Power Plant, which is owned and operated by American Electric Power (AEP). Overall, the proposed project would result in adverse impacts to approximately 300 acres of waters of the U.S., including approximately 186 acres of wetlands, 65 acres of ponds, and approximately 349,320 linear feet of streams, including a navigable reach of the Sabine River. Adverse impacts would occur in conjunction with the removal and stockpiling of overburden and interburden in an effort to recover approximately 90% of the in-place tonnage. As part of this project, several public roads, approximately 400 gas wells, and approximately 350 miles of pipeline would require modification. Other potential adverse effects associated with this project would include loss of forested floodplain and upland habitats, impacts to archeological sites, relocation of residential dwellings and one cemetery, and cumulative effects associated with the operation of four surface lignite mines within an approximately 20-mile radius.

2. *Alternatives:* Alternatives available to the USACE are to: (1) Issue the Department of the Army permit; (2) issue the Department of the Army permit with special conditions; or (3) deny the Department of the Army permit. Alternatives available to SMC include: (1) Construct, operate, and

reclaim the South Hallsville No. 1 Lignite Mine—Rusk Permit Area as proposed by SMC; (2) construct, operate, and reclaim the South Hallsville No. 1 Lignite Mine—Rusk Permit Area with modifications; (3) develop or acquire other lignite supply sources; or (4) no action.

3. *Scoping and Public Involvement Process:* A public scoping meeting to disseminate information about the proposed project and its potential effects to the human environment, and to seek public comments on the proposed project will be conducted (see **DATES & ADDRESSES**). A Public Notice will be issued June 23, 2009, to extend the opportunity for Federal, State, and local agencies and officials, and interested individuals to further comment on the proposed project and the scope of the EIS.

4. *Significant Issues:* Issues to be given significant analysis in the EIS are likely to include, but will not be limited to: The effects to surface water and groundwater resources, including water quantity and quality, effects on the immediate and adjacent property owners and nearby communities, downstream hydraulics and hydrology, geologic resources, vegetation, fish and wildlife, threatened and endangered species, soils, prime farmland, noise, light, aesthetics, historic and pre-historic cultural resources, socioeconomic, land use, public roads, and air quality.

5. *Cooperating Agencies:* At this time, no other Federal or State agencies have been established as cooperating agencies in preparation of the EIS. However, numerous federal and state agencies, including the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the Texas Commission on Environmental Quality, the Texas Parks and Wildlife Department, the Railroad Commission of Texas, and the Texas Historical Commission are expected to be involved in the preparation of, and provide comments on, the EIS.

6. *Additional Review and Consultation:* Compliance with other Federal and State requirements that will be addressed in the EIS include, but will not be limited to, state water quality certification under Section 401 of the Clean Water Act, protection of water quality under the Texas Pollutant Discharge Elimination System, protection of air quality under the Texas Air Quality Act, protection of endangered and threatened species under Section 7 of the Endangered Species Act, and protection of cultural resources under Section 106 of the National Historic Preservation Act.

7. *Availability of the Draft EIS:* The Draft EIS is projected to be available by August 2009. A public hearing will be conducted following the release of the Draft EIS.

**Stephen L. Brooks,**  
Chief, Regulatory Branch.

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## DELAWARE RIVER BASIN COMMISSION

### Notice of Revised Methodology for the Delaware River and Bay Integrated List Water Quality Assessment

**AGENCY:** Delaware River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the methodology proposed to be used in the 2010 Delaware River and Bay Integrated List Water Quality Assessment is available for review and comment. The proposed methodology is a substantially modified version of the methodology used for the 2008 assessment.

**DATES:** Comments must be received in writing by close of business on August 14, 2009.

**ADDRESSES:** Comments will be accepted via e-mail to [john.yagecic@drbc.state.nj.us](mailto:john.yagecic@drbc.state.nj.us); via fax to 609-883-9522; by U.S. Mail to DRBC, Attn: Integrated Assessment 2010, P.O. Box 7360, West Trenton, NJ 08628-0360; via private carrier to DRBC, Attn: Integrated Assessment 2010, 25 State Police Drive, West Trenton, NJ 08628-0360; or by hand. All submissions should have the phrase "Integrated Assessment 2010" in the subject line and should include the name, address (street address optional) and affiliation, if any, of the commenter.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Yagecic, Supervisor, Standards and Assessment Section, DRBC Modeling, Monitoring and Assessment Branch, via e-mail to [john.yagecic@drbc.state.nj.us](mailto:john.yagecic@drbc.state.nj.us) or by telephone to 609-883-9500, ext. 271.

**SUPPLEMENTARY INFORMATION:** The Delaware River Basin Commission ("DRBC" or "Commission") is an interstate and Federal compact agency that was created in 1961 by concurrent legislation of the States of Delaware, New Jersey, and New York, the Commonwealth of Pennsylvania and the United States Government for purpose of jointly managing the water resources of the Delaware River Basin.

DRBC currently is compiling data for the 2010 Delaware River and Bay Integrated List Water Quality Assessment ("2010 Assessment") required by the federal Clean Water Act (CWA). The 2010 Assessment will present the extent to which waters of the Delaware River and Bay are attaining designated uses in accordance with Section 305(b) of the CWA and will identify impaired waters, which consist of waters that exceed surface water quality standards.

Substantial changes from the 2008 methodology have been proposed, including the consideration of biological monitoring results in the assessment process. The assessment methodology to be used in the 2010 Assessment is available for review at the following URL: <http://www.state.nj.us/drbc/10IntegratedList-DraftMethod.htm>.

In the 2008 Assessment DRBC proposes to reduce the number of assessment units from the number used in 2006 by consolidating the units into DRBC's Water Quality Management Zones 1A, 1B, 1C, 1D, 1E, 2, 3, 4, and 5, the boundaries of which are defined in DRBC's Water Quality Regulations (18 CFR Part 410), available on the Web at [http://www.state.nj.us/drbc/regs/WQRegs\\_092607.pdf](http://www.state.nj.us/drbc/regs/WQRegs_092607.pdf). The 2008 Assessment will continue, however, to include subunits within Zone 6 that are defined in part by shellfish management directives issued by the States of Delaware and New Jersey. The 2010 Assessment will continue this process and also will include consideration of biological monitoring results.

June 17, 2009.

**Pamela M. Bush,**

Commission Secretary.

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**BILLING CODE 6360-01-P**

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before July 24, 2009.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs,