

115TH CONGRESS
1ST SESSION

H. R. 4423

To limit claims under Federal law seeking judicial review of any environmental impact statement, environmental review, or authorization for the Lower Bois d'Arc Creek Reservoir Project in Fannin County, Texas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2017

Mr. SAM JOHNSON of Texas (for himself, Mr. SESSIONS, Mr. RATCLIFFE, and Mr. HENSARLING) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To limit claims under Federal law seeking judicial review of any environmental impact statement, environmental review, or authorization for the Lower Bois d'Arc Creek Reservoir Project in Fannin County, Texas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “North Texas Water
5 Supply Security Act of 2017”.

1 **SEC. 2. LIMITATIONS ON CLAIMS UNDER FEDERAL LAW**
2 **SEEKING JUDICIAL REVIEW OF ANY ENVI-**
3 **RONMENTAL IMPACT STATEMENT, ENVIRON-**
4 **MENTAL REVIEW, AND/OR AUTHORIZATION**
5 **FOR THE LOWER BOIS D'ARC CREEK RES-**
6 **ERVOIR PROJECT IN FANNIN COUNTY, TEXAS.**

7 (a) DEFINITIONS.—

8 (1) AGENCY.—The term “agency” has the
9 meaning given the term in section 551 of title 5,
10 United States Code.

11 (2) AUTHORIZATION.—The term “authoriza-
12 tion” means any license, permit, approval, finding,
13 determination, certification, or other administrative
14 decision issued by an agency or a State agency act-
15 ing under delegated or other Federal authority that
16 is required or authorized under Federal law in order
17 to site, construct, reconstruct, or commence oper-
18 ations of the reservoir project.

19 (3) ENVIRONMENTAL IMPACT STATEMENT.—
20 The term “environmental impact statement” means
21 the detailed statement required under section
22 102(2)(C) of the National Environmental Policy Act
23 of 1969 (42 U.S.C. 4332(2)(C)).

24 (4) ENVIRONMENTAL REVIEW.—The term “en-
25 vironmental review” means procedures and processes
26 conducted to comply with section 102 of the Na-

1 tional Environmental Policy Act of 1969 (42 U.S.C.
2 4332).

3 (5) PROJECT SPONSOR.—The term “project
4 sponsor” means the North Texas Municipal Water
5 District.

6 (6) RESERVOIR PROJECT.—The term “reservoir
7 project” means the Lower Bois d’Arc Creek Res-
8 ervoir Project located in Fannin County, Texas, pro-
9 posed for construction by the North Texas Municipal
10 Water District.

11 (b) JUDICIAL REVIEW.—Notwithstanding any other
12 provision of law, a claim arising under Federal law seeking
13 judicial review of any environmental impact statement, en-
14 vironmental review, and/or authorization issued by an
15 agency or a State agency acting under delegated or other
16 Federal authority for the reservoir project shall be barred
17 unless—

18 (1) the action is filed not later than 60 days
19 after the date of publication in the Federal Register
20 of the final record of decision or approval or, unless
21 a shorter time is specified in Federal law under
22 which judicial review is allowed; and

23 (2) in the case of an action pertaining to an en-
24 vironmental impact statement for, environmental re-
25 view of, or authorization for the reservoir project,

1 the action is filed by a party that submitted a com-
2 ment during the public comment period on the re-
3 vised draft environmental impact statement for the
4 reservoir project.

5 (c) SEPARATE ACTION.—The final agency action that
6 follows preparation of a supplemental environmental im-
7 pact statement, if required, shall be considered a separate
8 final agency action, and the deadline for filing a claim for
9 judicial review shall be 60 days after the date of the Fed-
10 eral Register notice of the final agency action.

11 (d) DISTRICT COURT VENUE AND DEADLINE.—All
12 actions related to the reservoir project—

13 (1) shall be brought in the United States Dis-
14 trict Court for the Eastern District of Texas; and

15 (2) shall be resolved as expeditiously as pos-
16 sible.

17 (e) INJUNCTIVE RELIEF.—

18 (1) IN GENERAL.—In addition to considering
19 any other applicable equitable factors, in any motion
20 for a temporary restraining order or any injunction
21 against an agency, a State agency acting under dele-
22 gated or other Federal authority or the project spon-
23 sor in connection with review or authorization of the
24 reservoir project, the court shall—

1 (A) consider the potential effects on public
2 health, safety, and the environment, and the po-
3 tential for significant negative economic effects
4 resulting from an order or injunction;

5 (B) not presume that the harms described
6 in subparagraph (A) are reparable;

7 (C) not waive or limit the requirements of
8 Federal Rule of Civil Procedure 65(e) as to any
9 movant for a temporary restraining order or in-
10 junction; and

11 (D) determine the amount of security de-
12 scribed in subparagraph (C) in the same pro-
13 ceeding in which the court considers the tem-
14 porary restraining order or any injunction.

15 (2) SECURITY.—With respect to the security
16 described in paragraph (1)(C)—

17 (A) an order granting injunctive relief shall
18 not be effective unless and until such security
19 has been posted by the movant;

20 (B) an order granting injunctive relief
21 shall require such security to be posted within
22 15 calendar days or less from the issuance of
23 the order; and

24 (C) if the movant fails to post such secu-
25 rity within the time provided in an order grant-

1 ing injunctive relief, the order granting injunc-
2 tive relief automatically terminates.

3 (f) SAVINGS PROVISION.—Nothing in this section—

4 (1) creates a right to judicial review;

5 (2) supersedes, amends, or modifies any Fed-
6 eral statute or affects the responsibility of any State
7 or Federal officer to comply with or enforce any
8 statute;

9 (3) creates a presumption that the reservoir
10 project will be approved or favorably reviewed by any
11 agency or a State agency acting under delegated or
12 other Federal authority; or

13 (4) places any limit on filing a claim that a per-
14 son has violated the terms or conditions of a permit,
15 license, approval, or certification.

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