

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

TOWN OF ABITA SPRINGS,	*
<i>Plaintiff,</i>	*
vs.	*
	*
U.S. ARMY CORPS OF ENGINEERS, and	*
	* Case No. 15-451
JOHN M. McHUGH, in his official capacity	*
as Secretary of the U.S. Army, and	* Judge:
LIEUTENANT GENERAL THOMAS P.	*
BOSTICK, in his official capacity as U.S.	* Magistrate:
Army Chief of Engineers and Commanding	*
General of the U.S. Army Corps of	*
Engineers, and MARTIN S. MAYER, Chief,	*
Regulatory Branch, U.S. Army Corps of	*
Engineers, New Orleans District, in his	*
Official and Individual Capacity,	*
	*
<i>Defendants.</i>	*

184-001.3

**COMPLAINT**

For its Complaint, the Plaintiff Town of Abita Springs (“Abita Springs”) makes the following allegations against the Defendants, U.S. Army Corps of Engineers, Lieutenant General Thomas P. Bostick, John McHugh, and Martin S. Mayer (collectively, “Corps”).

**NATURE OF THE CASE**

1. Abita Springs brings this case against the Corps because the Corps’ final agency action denying Abita Springs’ requests for a public hearing and its failure to grant a new notice and comment period on the Helis Oil & Gas Company, LLC (“Helis Oil”) permit application was arbitrary and capricious, in violation of proper procedure, an abuse of discretion, and in excess of statutory authority. The Corps gave no reason for denying Abita Springs’ public hearing request on Helis Oil’s plan to drill a well in wetlands to be used for hydraulic fracturing (“fracking”), though its regulations require it to make mandatory findings.

2. Further, the Corps was arbitrary and capricious, violated proper procedure, abused its discretion, and exceeded its statutory authority in failing to reopen the comment period to allow comment on the more than 500 pages of documentation Helis Oil submitted after the close of the comment period. Helis Oil's documentation included numerous statements by Helis Oil consultants purporting to address, for the first time, Clean Water Act, National Environmental Policy Act (NEPA), and regulatory requirements. The Corps violated proper procedure when it deemed Helis Oil's application complete and publicly noticed it without this information essential to complete the application and ensure effective public comment.

3. The Corps' denial of Abita Springs' public hearing request is unlawful because the issues raised by the Helis Oil application are substantial and there is a valid interest to be served by a public hearing.

4. The Corps' denial of Abita Springs' public hearing request is unlawful because the Corps failed to make the legally-required findings before denying Abita Springs' public hearing request.

5. The Corps' failure to issue a new public notice or reopen the comment period is unlawful because the Corps failed to ensure the availability to the public of critical information necessary for meaningful public comment in violation of Section 404 of the Clean Water Act, 33 U.S.C. § 1344; Section 10 of the Administrative Procedure Act (APA), 5 U.S.C. § 706; and the regulations implementing NEPA, 40 C.F.R. § 1500.1, et seq.

### **JURISDICTION**

6. This Court has jurisdiction over this matter because it is a civil action arising under the laws of the United States. 28 U.S.C. § 1331.

7. The claims in the case at bar arise under the Administrative Procedure Act, 5 U.S.C. § 551 et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., and the Declaratory Judgment Act, 28 U.S.C. § 2201.

**VENUE**

8. Pursuant to 28 U.S.C. § 1391(e), venue in this action is proper in the Eastern District of Louisiana because the wetlands at issue are located within this district and the permitting process at issue occurred within this district.

**PARTIES**

9. Plaintiff Abita Springs is a political subdivision of the State of Louisiana, organized and existing pursuant to Louisiana law. Abita Springs is located within St. Tammany Parish, Louisiana. It has a population of approximately 2,500 citizens.

10. Abita Springs is a “person” for the purposes of the APA judicial review provisions. *See* 5 U.S.C. §§ 701(b)(2), 551(2).

11. Much of Abita Springs’ identity and value as a place to live, work, and recreate derives from its clean environment, peaceful setting, and lack of industrial activity.

12. Abita Springs enjoys a unique connection to the Southern Hills Aquifer, located under the wetlands where Helis Oil proposes its project, because Abita Springs’ identity is inextricably entwined with the cleanliness and purity of the Southern Hills Aquifer water.

13. Abita Springs has economic, environmental, recreational, historic, and aesthetic interests in the Helis Oil application to the Corps for a dredge and fill permit under Section 404 of the Clean Water Act (“404 permit” or “dredge and fill permit”).

14. Abita Springs residents attend Lakeshore High School, which is immediately across the street from the entrance to the proposed Helis Oil site.

15. Abita Springs is adversely affected and aggrieved by the Corps' action denying its public hearing request and failing to grant a new notice and comment period because the Corps' denial violated Abita Springs' procedural rights. Abita Springs is harmed by the Corps' denial because it is unable to provide input orally or in writing to the Corps regarding the additional information submitted by Helis Oil after the close of the comment period.

16. In a public hearing or new comment period, Abita Springs would have the opportunity to submit comments which may influence the Corps' decision on whether the Helis Oil application meets the legal requirements for permit issuance, including requirements under the regulations implementing the Clean Water Act and the Corps' regulations requiring a public interest review.

17. Abita Springs has a legally protectable interest in the quality of the environment in its vicinity, which will be impacted by Helis Oil's project. Abita Springs is reasonably concerned about the potential and real adverse impacts to Abita Springs and its citizens of Helis Oil's proposal and on the impacts of future Helis Oil projects reasonably related to the current proposal.

18. Defendant U.S. ARMY CORPS OF ENGINEERS is a federal agency within the U.S. Department of the Army, and, therefore, an agency under the APA (5 U.S.C. § 701(b)(1)) and NEPA (42 U.S.C. §§ 4321 et seq.).

19. Defendant JOHN M. McHUGH is the Secretary of the U.S. Army and, therefore, an officer or employee of an agency under the APA (5 U.S.C. §§ 701(b)(1), 702) and NEPA (42 U.S.C. §§ 4321 et seq.).

20. Defendant LT. GENERAL THOMAS P. BOSTWICK is the U.S. Army Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers and, therefore, an officer or employee of an agency under the APA (5 U.S.C. §§ 701(b)(1), 702) and NEPA (42 U.S.C. §§ 4321 et seq.).

21. Defendant CHIEF MARTIN S. MAYER is the head of the Regulatory Branch of the U.S. Army Corps of Engineers, New Orleans District, and, therefore, an officer or employee of an agency under the APA (5 U.S.C. §§ 701(b)(1), 702) and NEPA (42 U.S.C. §§ 4321 et seq.). He is personally responsible for the Corps' denial of Abita Springs' public hearing request and request to re-notice the comment period.

22. Collectively, the Defendants are responsible for issuing or denying permits to dredge and fill wetlands under Clean Water Act § 404, and for ensuring full public participation in the permitting process.

### **LEGAL BACKGROUND**

#### **A. The Clean Water Act**

23. Congress enacted the Clean Water Act to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” Clean Water Act § 101(a), 33 U.S.C. § 1251(a).

24. The Clean Water Act prohibits the “discharge of any pollutant by any person” into navigable waters without a permit. Clean Water Act § 301(a), 33 U.S.C. § 1311(a); *see also* 33 U.S.C. §§ 1362(7), (12) *and* 33 U.S.C. § 1344(a).

25. The Clean Water Act defines pollutant to include dredged spoil. Clean Water Act § 502(6), 33 U.S.C. § 1362(6).

26. The Corps is the governmental agency responsible for issuing permits for the discharge of dredge or fill material into navigable waters pursuant to the Clean Water Act § 404(a). 33 U.S.C. § 1344(a).

27. In Section 404 of the Clean Water Act, Congress charged the Corps with certain non-discretionary duties that are designed to protect the public's procedural rights in the permitting of dredge and fill projects. These procedural safeguards, also imposed upon the Corps under NEPA, are intended to generate thorough and responsible substantive permitting decisions through the full and informed participation of the public.

28. The Clean Water Act provides that the Corps may only issue permits for the discharge of dredged and fill material "after notice and opportunity for public hearings. . . ." Clean Water Act § 404(a), 33 U.S.C. § 1344(a).

29. The Clean Water Act mandates that the Corps publish notice of an application for a dredge and fill permit only after "an applicant submits all the information required to complete an application for a permit . . . ." Clean Water Act § 404(a), 33 U.S.C. § 1344(a).

30. In evaluating an application for a dredge and fill permit, the Corps must apply "guidelines developed by the Administrator [of the Environmental Protection Agency]." Clean Water Act § 404(b)(1), 33 U.S.C. § 1344(b)(1). These procedural requirements are referred to as the 404(b)(1) Guidelines.

**B. Federal Regulations**

31. The 404(b)(1) Guidelines provide that "no discharge or dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences." 40 C.F.R. § 230.10(a).

32. The 404(b)(1) Guidelines also provide that where “a discharge is proposed for a special aquatic site [i.e., wetlands] . . . practicable alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated otherwise.” 40 C.F.R. § 230.10(a)(3).

33. In addition to complying with the 404(b)(1) Guidelines, when issuing dredge and fill permits the Corps must also comply with its own regulations, which are “applicable to the review of all applications for DA [Department of the Army] permits.” 33 C.F.R. § 320.4.

34. In determining whether to issue a Section 404(b) permit to dredge and fill wetlands, the Corps’ regulations require it to assess if issuance “would be contrary to public interest.” 33 C.F.R. § 320.4(a)(1).

35. To evaluate the public interest, “[a]ll factors which may be relevant to the proposal must be considered including the cumulative effects thereof: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.” 33 C.F.R. § 320.4(a)(1).

36. The Corps’ regulations provide that an application for a Section 404 permit to dredge and fill wetlands “must include a complete description of the proposed activity including . . . the location, purpose and need for the proposed activity. . . .” 33 C.F.R. § 325.1(d)(1).

37. In addition, all activities “which the applicant plans to undertake which are reasonably related to the same project and for which a DA permit would be required should be

included in the same permit application. District engineers should reject, as incomplete, any permit application which fails to comply with this requirement.” 33 C.F.R. § 325.1(d)(2).

38. An application is determined to be complete “when sufficient information is received to issue a public notice.” 33 C.F.R. § 325.1(d)(10).

39. Public notice serves as “the primary method of advising all interested parties of the proposed activity . . . and of soliciting comments and information necessary to evaluate the probable impact on the public interest.” 33 C.F.R. § 325.3(a).

40. Notice to the public “must, therefore, include sufficient information to give a clear understanding of the nature and magnitude of the activity to generate meaningful public comment.” 33 C.F.R. § 325.3(a).

41. Any person may request in writing and within the comment period that the Corps hold a public hearing “to consider the material matters at issue in the permit application . . . .” 33 C.F.R. § 327.4(b).

42. Upon receiving a request for a public hearing “stating with particularity the reasons for holding a public hearing, the district engineer may expeditiously attempt to resolve the issue informally. Otherwise, he shall promptly set a time and place for the public hearing, and give due notice thereof . . . .” 33 C.F.R. § 327.4(b).

43. Requests for public hearings “shall be granted, unless the district engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.” 33 C.F.R. § 327.4(b).

44. If the Corps denies the hearing for one of these two reasons, it must “make such a determination in writing, and communicate [its] reasons therefor to all requesting parties.” 33 C.F.R. § 327.4(b).



**C. The National Environmental Policy Act**

45. The purpose of the NEPA is: “To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; [and] to enrich the understanding of the ecological systems and natural resources important to the Nation . . . .” NEPA § 2, 42 U.S.C. § 4321.

46. To that end, NEPA requires all federal agencies proposing major federal action significantly affecting the environment to include a detailed statement on “(i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, (iii) alternatives to the proposed action, [and] (iv) the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity . . . .” NEPA § 102(C), 42 U.S.C. § 4332(C).

47. The regulations implementing the NEPA requirements, promulgated by the Council on Environmental Quality (“CEQ Guidelines”) stress the importance of public participation in the NEPA process. They provide that “NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken” and that “public scrutiny [is] essential to implementing NEPA.” 40 C.F.R. § 1500.1(b).

48. The CEQ Guidelines also speak to the agency’s responsibility to hold public hearings. They state: “Agencies shall . . . [h]old or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is . . . [s]ubstantial environmental controversy concerning the

proposed action or substantial interest in holding the hearing.” 40 C.F.R. § 1506.6(c)(1).

**D. The Administrative Procedure Act**

49. When issuing relief under the APA, “[t]he reviewing court shall-- (1) compel agency action unlawfully withheld or unreasonably delayed. . . .” 5 U.S.C. § 706(1).

50. The APA additionally provides that courts “shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be—(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; . . . (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; [or] (D) without observance of procedure required by law. . . .” 5 U.S.C. § 706(2).

51. There is a strong presumption in favor of judicial review of agency actions under the APA “that can be rebutted only by a clear showing that judicial review would be inappropriate.” *Natural Res. Def. Council, Inc. v. Sec. & Exchange Comm’n*, 606 F.2d 1031, 1043 (D.C. Cir. 1979)(citing *Dunlop v. Bachowski*, 421 U.S. 560, 567 (1975) (additional internal citations omitted)).

52. The Corps’ decisions to deny Abita Springs’ requests for a public hearing and new notice and comment period are final agency actions, for which there is no other adequate remedy in court. *See* 5 U.S.C. § 704.

**FACTS**

**A. The Corps Failed to Provide Sufficient Information for Public Comment.**

53. Hydraulic fracturing is an oil and gas production technique used after a horizontal well is drilled. It involves pumping a proprietary mix of fluids, including toxic chemicals, and sand or ceramic-based material (known as “proppants”) into a well under extreme pressure to

create or restore cracks in rock formations underground to stimulate production and flow of oil and natural gas.

54. On April 14, 2014, the Corps issued a joint public notice (with the Louisiana Department of Environmental Quality) announcing that Helis Oil had applied to develop a horizontal drilling and hydraulic fracturing operation on 10.55 acres of wetlands near Louisiana Highway 1088 in St. Tammany Parish (“initial application”).

55. The April 14, 2014, public notice announced the start of the public notice and comment period for Helis Oil’s initial permit application.

56. During this initial public comment period, the Corps, the Louisiana Department of Environmental Quality (LDEQ), and the Environmental Protection Agency (EPA) requested additional information from Helis Oil regarding mandatory requirements of the Clean Water Act and implementing regulations.

57. Specifically, on June 19, 2014, the Corps requested that Helis Oil provide additional information necessary for the Corps to conduct its public interest review under 33 C.F.R. § 320.4(a). Among the issues the Corps requested that Helis Oil address were the numerous migration pathways through which potential contamination from the well could reach the Southern Hills Aquifer.

58. The Southern Hills Aquifer is an EPA-designated sole source drinking water aquifer. It is the sole source of drinking water for Abita Springs, and the sole source of drinking water for St. Tammany Parish. In total, it serves as a drinking water source for nearly 1,100,000 people in the state of Louisiana.

59. On July 2, 2014, the Corps sent another letter to Helis Oil requesting additional information necessary for Helis Oil to meet its burden to overcome the presumption that

alternative, non-wetland sites were available for its project. This information is required under NEPA, the 404(b)(1) Guidelines, and the Corps' public interest regulations.

60. In its July 2, 2014, letter, the Corps stated: "The Corps presumes that there may be other available sites in this geographical area that would accommodate the applicant's desired goals, for drilling into the Tuscaloosa Shale Play and that would be economically viable and environmentally less damaging." It recommended that Helis Oil "conduct a search and submit an alternative analysis that encompasses other available sites regionally located."

61. The Corps deemed the issues it raised in its June 19, 2014, and July 2, 2014, letters to be substantial.

62. Upon information and belief, Helis Oil provided no written response to the Corps' June 19, 2014, and July 2, 2014, requests during the Corps' consideration of its initial application.

63. On July 28, 2014, the Corps arranged for a Geologic Review meeting with the United States Geological Survey (USGS) regarding Helis Oil's initial application. The meeting included representatives from the Corps, Helis Oil, the EPA, the DEQ, and the Louisiana Department of Wildlife and Fisheries.

64. At the Geologic Review meeting, Helis Oil presented data to the agency officials, including the Corps officials, attending the meeting.

65. Upon information and belief, the Corps will rely on this data in conducting the alternatives analysis required by the 404(b)(1) Guidelines and NEPA.

66. Abita Springs Mayor Greg Lemons asked the Corps to allow him to attend the Geologic Review meeting. The Corps informed Mayor Lemons that it would not allow him to attend the Geologic Review meeting.

67. The public was excluded from attending the Geologic Review meeting.

68. The data Helis Oil presented at the Geologic Review meeting has never been made available to the public by the Corps or any other entity.

69. Following the Geologic Review, on September 3, 2014, Helis Oil filed a revised application with the Corps (“revised application”). In its revised application, Helis Oil split its fracking project into two phases, and applied for Corps approval for only Phase I of the project – construction of a wellpad for a vertical exploratory well, requiring it to dredge and fill 3.21 acres of wetland.

70. Upon information and belief, Helis Oil was advised by the Corps or the USGS at the Geologic Review meeting to take this phased approach to permitting.

71. Helis Oil described the purpose of Phase I as “to confirm the production potential” of its proposed location.

72. Helis Oil’s revised application eliminated discussion of the fracking aspect of its project, mentioning only that Phase II would involve drilling a horizontal well.

73. Helis’s plans to drill a horizontal well and hydraulically fracture that well are reasonably related to its planned Phase I vertical, exploratory well which forms the basis of its revised application.

74. In its revised application, Helis Oil included an exhibit entitled “Response to USACE 6/20/14 Request for Information” (“Response”). This exhibit marked the first time Helis Oil responded in writing to any of the deficiencies noted in the Corps’ June 19, 2014, and July 2, 2014, requests for more information on the Helis Oil initial application.

75. In its Response, Helis Oil refused to respond to any of the Corps’ June 19, 2014, and July 2, 2014, questions which Helis Oil deemed as pertaining to the fracking aspect of its

project, stating that its Response was “limited to requests that pertain to the Phase 1 drilling of the vertical well only.”

76. On October 14, 2014, the Corps (and LDEQ) publicly noticed Helis Oil’s revised application. The thirty day notice and comment period ended on November 13, 2014.

77. Abita Springs timely submitted comments to the Corps on Helis Oil’s application on November 13, 2014.

78. On January 2, 2015, Helis Oil submitted to the Corps over 500 pages of documentation, much of it technical, entitled “Response to Comments.”

79. This documentation discussed several issues of interest to Abita Springs and the general public, including :

- a) A transcript of the testimony of three Helis Oil consultants at an evidentiary hearing held before the Louisiana Department of Natural Resources (DNR) regarding various aspects of the project;
- b) exhibits provided by these consultants at the hearing;
- c) a Fluid Migration Study, purporting to demonstrate how far toxic chemicals would travel through the Southern Hills Aquifer if they leaked from the well; and
- d) three additional statements by Helis Oil consultants and/or representatives, purporting to meet Helis Oil’s burden to establish that that no alternatives to its proposed site existed.

80. Upon information and belief, the Corps will rely on this documentation in reaching its decision whether to grant Helis Oil a permit.

81. The public did not have the opportunity to comment on this submission because the comment period had long expired.

82. On January 14, 2014, Abita Springs requested that the Corps reissue its public notice and reopen the notice and comment period to allow for comment on the documentation Helis Oil submitted after the comment period responding to information the Corps requested back in June 2014.

83. The Corps did not grant Abita Springs' request that it issue a new public notice and reopen the comment period.

**B. The Corps Unlawfully Denied Abita Springs a Public Hearing.**

84. Abita Springs submitted a written request for a public hearing to consider the material matters at issue in Helis Oil's initial application for a dredge and fill permit on June 13, 2014, as part of its comments on the initial application.

85. Abita Springs submitted a written request for a public hearing to consider the material matters at issue in Helis Oil's revised application on October 31, 2014.

86. Abita Springs reiterated its request for a public hearing on Helis Oil's revised application on November 13, 2014, as part of its comments on the revised permit application.

87. On January 14, 2015, Abita Springs wrote to the Corps for a response to its repeated requests for a public hearing.

88. Abita Springs stated with particularity the reasons for holding a public hearing in its requests to the Corps for a public hearing.

89. The Corps did not attempt to resolve the issues informally in response to Abita Springs' public hearing requests.

90. On January 21, 2015, the Corps denied Abita Springs' request for a public hearing. The Corps simply noted that a "PH [public hearing] is not necessary for this project as currently proposed," and provided no additional reasons for the denial.

91. The Corps did not determine in writing that the issues raised by Abita Springs were insubstantial.

92. The Corps did not determine in writing that there is no valid interest to be served by a hearing.

93. The issues raised by Abita Springs in its request for a public hearing were not insubstantial.

94. A public hearing serves the valid interest of allowing citizens to fully and accurately inform the Corps about the public interest in Helis Oil's proposed project.

95. As a result, the public could not properly inform the Corps of the public interest.

96. The public interest is material because it is an essential element of consideration in the process.

### **CAUSES OF ACTION**

#### **First Cause of Action**

#### ***(Abuse of Discretion in Failure to Hold a Public Hearing)***

97. The issues raised by Abita Springs' hearing request are substantial.

98. There is a valid interest to be served by a public hearing.

99. The public hearing request tendered evidence showing the need for a hearing and stated with particularity the reasons for holding a public hearing.

100. The Corps' failure to hold a public hearing is an abuse of discretion.

101. The Corps' failure to hold a public hearing is an arbitrary and capricious decision.



**Second Cause of Action**

***(Failure to Make Required Findings in Denying Public Hearing)***

102. The Corps had a nondiscretionary duty to make specific findings to justify denial of Abita Springs' public hearing request.

103. The Corps failed to make the findings required by the law.

104. The Corps' failure to make these findings violates proper procedure.

105. The Corps' failure to make these findings is arbitrary and capricious.

**Third Cause of Action:**

***(Failure to Hold a Sufficient Notice and Comment Period)***

106. The Helis Oil permit application was incomplete on October 14, 2014, when the Corps publicly noticed the comment period on the revised application.

107. The Corps denied Abita Springs "notice and opportunity for public hearings." Clean Water Act § 404(a), 33 U.S.C. § 1344(a).

108. The Corps denied Abita Springs the right to "meaningfully comment" under 33 C.F.R. § 325.3(a).

109. The Corps' failure to re-notice and reopen the public comment period is an abuse of discretion.

110. The Corps' failure to re-notice and reopen the public comment period is an arbitrary and capricious decision.

**Fourth Cause of Action:**

***(Failure to Require Application to Address All Reasonably Related Activities)***

111. The Helis Oil revised permit application was incomplete on October 14, 2014, because it did not address the reasonably related Phase II aspects of Helis Oil's project.


112. The Corps' failure to reject Helis Oil's revised permit application as incomplete was arbitrary and capricious, in violation of proper procedure, and an abuse of discretion.

**PRAYER FOR RELIEF:**


WHEREFORE, Plaintiffs respectfully pray for judgment as follows:

1. An order compelling the Corps to hold a public hearing regarding Helis Oil's proposed drilling and hydraulic fracturing operation.
2. An order declaring the Corps' decision about whether to hold a hearing illegal and remanding for proceedings and a decision consistent with the law, including without limitation 33 C.F.R. § 327.4.
3. An order declaring the Corps' October 14, 2014, public notice illegal, as in violation of NEPA, the Clean Water Act section 404(a), and 33 C.F.R. § 325.3, and ordering the Corps to issue a new public notice and accept public comment consistent with the law.
4. An order compelling the Corps to issue a new notice public notice and accept public comment on a complete Helis Oil application.
5. An award of appropriate attorneys' fees as provided by the Equal Access to Justice Act. *See* 28 U.S.C. § 2412.
6. An award of such other relief as the Court deems just and proper.

Respectfully submitted on February 12, 2015

  
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