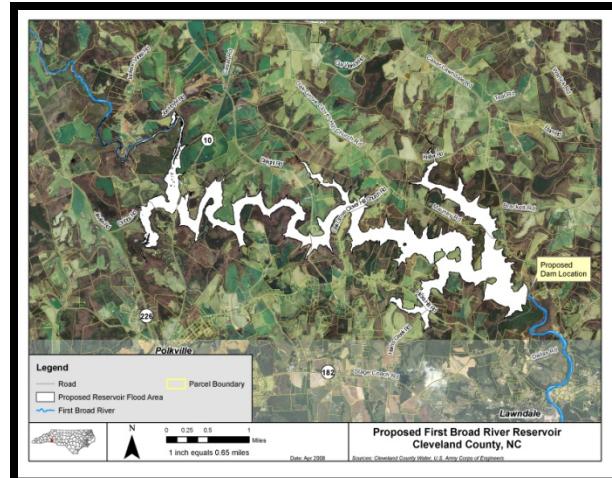




US Army Corps
of Engineers®
Wilmington District

Cleveland County Water 1,200 Acre First Broad River Reservoir Cleveland County, North Carolina (Regulatory)

- **Permit application to construct a 1,200 acre water supply reservoir on the First Broad River near the town of Lawndale, Cleveland County, North Carolina.**
- **Current issues are related to the development of an Environmental Impact Statement.**



CONGRESSIONAL DISTRICT: NC- 10

Date: 23 February 2015

1. PURPOSE:

To provide information on the Cleveland County Water's (CCW) proposal to construct a water supply impoundment on the First Broad River, Cleveland County, North Carolina.

2. BACKGROUND:

- A technical feasibility study for constructing an impoundment on the First Broad River, to serve the growing potable water needs of Cleveland County, was published in February 1997. Four reservoir locations were selected for evaluation. Cleveland County Water chose an alternative which would impound approximately 24 miles of First Broad River (and associated tributaries) with a pool elevation of 856 feet NGVD.
- The proposal received renewed interest due to drought conditions which occurred in the summer of 2002. CCW's proposed reservoir is driven by drought concerns and potential future capacity needs. CCW is proposing a regional facility to serve Cleveland County, NC and portions of Rutherford, Gaston, and Lincoln Counties in NC and Cherokee County in SC.
- The Corps received an individual permit application from CCW on June 22, 2005. Based upon comments received from the June 28, 2005 public notice, the Corps determined that, if permitted, the proposal would have a significant impact on the human environment. Thus, the Corps notified

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the applicant that the preparation of an Environmental Impact Statement would be required pursuant to the NEPA.

d. A public notice was issued on April 7, 2008 notifying the public of a scoping meeting that was held in Shelby, NC on April 17, 2008. The meeting was attended by about 200 people.

e. As a result of the interagency/stakeholder meetings and the scoping meeting, the North Carolina Division of Water Resources performed an update of the In-stream Flow Study (completed on June 20, 2008) for the First Broad River to address the amount of water that will be available to CCW for water supply.

f. On February 5, 2009, an interagency/ stakeholder meeting was held in Mooresville to review and discuss the updated purpose and need and alternatives report. The agencies and stakeholders provided comments on the draft documents.

g. The Corps updated the purpose and need and alternatives report to address agency's and stakeholder's concerns and developed a tentative final reasonable range of alternatives to meet the purpose and need statement. These alternatives are: the applicant's preferred alternative (the reservoir on the First Broad River), a smaller reservoir on Upper Crooked Run Creek, construction of a new water treatment plant and raw water intake on the Broad River, purchase water treatment plant capacity from the City of Shelby, NC, purchase water treatment plan capacity from the Town of Forest City, NC, and purchase water treatment plant capacity from the Town of Kings Mountain, NC.

h. On June 1 and October 1, 2009, the Corps sent letters to CCW stating our concerns about the proposed reservoir having significantly more environmental impacts than partnering and purchasing water supply capacity from nearby cities and towns, or constructing an intake on the Broad River. All of these alternatives appear to fully meet CCW's purpose and need, have significantly less environmental and human impact than a new reservoir, and will be far less costly than the construction of a new reservoir. The Corps stated that if CCW cannot provide information as to why these alternatives are not available to them, and also demonstrate how the reservoir is the least environmentally damaging practicable alternative, the Corps will have no choice but to deny their request to construct a reservoir on the First Broad River. The Corps also stated that the continued efforts toward the preparation of an EIS document are an unwise use of the resources of both CCW and the Corps. In the light of these other feasible alternatives, the Corps strongly urged CCW to reconsider its desire to pursue the reservoir alternative at this time. The Corps believes that consideration of one or a combination of the alternatives will potentially save CCW significant effort and costs. On March 24, 2010 and July 2, 2010, CCW responded stating that they still wanted to pursue the proposed reservoir and continue the EIS process.

i. The Corps resumed the EIS process at CCW's request in September 2010. On September 1, 2011, the Corps had an interagency/stakeholder meeting to get comments on the proposed project and alternatives. The Corps received comments from the agencies and stakeholders and

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began reviewing them to determine the appropriate response and incorporation into the document.

- j. On April 4, 2012, CCW requested that the Corps stop working on the EIS.
- k. On January 16, 2013, CCW contacted the Corps and requested resumption of working on the EIS.
- l. In May 2013, the third party contractor, hired to assist the Corps in the development of the EIS, submitted, on behalf of CCW, an application to the NC Division of Water Quality (now Division of Water Resources DWR) for Water Quality Certification. This application included the Contractor's pre-decisional conclusion as to the ultimate result of the EIS. Subsequently, the Corps facilitated the removal of this contractor from the EIS process and requested that CCW provide the Corps with a new list of potential contractors.
- m. In July 2013, the NC Division of Water Resources waived the requirement for a Water Quality Certification.
- n. In November 2013, CCW informed the Corps that the CCW Board of Commissioners decided that they would no longer pay for a contractor to assist the Corps in the EIS process.
- o. In January 2014, the DWR issued a rescission of their Water Quality Certification waiver, citing a petition for contested case filed by American Rivers (a non-profit organization) which challenges the waiver.
- p. The Corps worked on developing a plan of action for completing the DEIS without the assistance of a Third Party Contractor from November 2013 to January 2015. The Corps informed CCW that without the assistance of a contractor, the time that it will take for the Corps to complete and publish the DEIS is considerably longer, given the Corps' resources and staffing constraints.

3. **CURRENT STATUS:**

In January 2015, the Corps provided guidance stating that third party contractors had to be provided by the applicant to complete the EIS. On January 8, 2015, the Corps sent a letter to CCW providing a list of issues that needed to be resolved to continue the EIS process which basically had to do with the purpose and need of the project and the alternatives analysis. This included concerns about the NC State Demographic Unit's reduced population demand projections for the service area, CCW's 2013 Local Water Supply Plan (required by the North Carolina Division of Water Resources) projected water supply demand in 2060 was only 45% of their present available supply, and additional information to address other alternatives that could potentially provide additional water with much less impacts to the aquatic environment than the proposed water supply reservoir. CCW was also notified that they would need to hire a qualified third party contractor to complete the EIS or all work on the EIS would cease.