

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4423
OFFERED BY MR. RATCLIFFE OF TEXAS**

Strike all that follows after the enacting clause and
insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “North Texas Water
3 Supply Security Act of 2018”.

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

10 (a) DEFINITIONS.—

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

14 (2) AUTHORIZATION.—The term “authoriza-
15 tion” means any license, permit, approval, finding,
16 determination, certification, or other administrative
17 decision issued by an agency or a State agency act-
18 ing under delegated or other Federal authority that

1 is required or authorized under Federal law in order
2 to site, construct, reconstruct, or commence oper-
3 ations of the reservoir project.

4 (3) ENVIRONMENTAL IMPACT STATEMENT.—
5 The term “environmental impact statement” means
6 the detailed statement required under section
7 102(2)(C) of the National Environmental Policy Act
8 of 1969 (42 U.S.C. 4332(2)(C)).

9 (4) ENVIRONMENTAL REVIEW.—The term “en-
10 vironmental review” means procedures and processes
11 conducted to comply with section 102 of the Na-
12 tional Environmental Policy Act of 1969 (42 U.S.C.
13 4332).

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

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

22 (b) JUDICIAL REVIEW.—Notwithstanding any other
23 provision of law, a claim arising under Federal law seeking
24 judicial review of any environmental impact statement, en-
25 vironmental review, or authorization issued by an agency

1 or a State agency acting under delegated or other Federal
2 authority for the reservoir project shall be barred unless—

3 (1) the action is filed not later than 105 days
4 after the date of the United States Army Corps of
5 Engineers' final approval of the Department of the
6 Army permit No. SWT-0-14659 for the reservoir
7 project; and

8 (2) in the case of an action pertaining to an en-
9 vironmental impact statement for, environmental re-
10 view of, or authorization for the reservoir project,
11 the action is filed by a party that submitted a com-
12 ment during the public comment period on the re-
13 vised draft environmental impact statement for the
14 reservoir project.

15 (c) SEPARATE ACTION.—The final agency action that
16 follows preparation of a supplemental environmental im-
17 pact statement, if required, shall be considered a separate
18 final agency action, and the deadline for filing a claim for
19 judicial review shall be 60 days after the date of the final
20 agency action.

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

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

1 (2) shall be resolved as expeditiously as possible.
2

3 (e) INJUNCTIVE RELIEF.—

4 (1) IN GENERAL.—In addition to considering
5 any other applicable equitable factors, in any motion
6 for a temporary restraining order or any injunction
7 against an agency, a State agency acting under dele-
8 gated or other Federal authority or the project spon-
9 sor in connection with review or authorization of the
10 reservoir project, the court shall—

11 (A) consider the potential effects on public
12 health, safety, and the environment, and the po-
13 tential for significant negative economic effects
14 resulting from an order or injunction;

15 (B) not presume that the harms described
16 in subparagraph (A) are reparable;

17 (C) not waive or limit the requirements of
18 Federal Rule of Civil Procedure 65(c) as to any
19 movant for a temporary restraining order or in-
20 junction; and

21 (D) determine the amount of security de-
22 scribed in subparagraph (C) in the same pro-
23 ceeding in which the court considers the tem-
24 porary restraining order or any injunction.

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

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

6 (B) an order granting injunctive relief
7 shall require such security to be posted within
8 15 calendar days or less from the issuance of
9 the order; and

10 (C) if the movant fails to post such secu-
11 rity within the time provided in an order grant-
12 ing injunctive relief, the order granting injunc-
13 tive relief automatically terminates.

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

15 (1) creates a right to judicial review;

16 (2) supersedes, amends, or modifies any Fed-
17 eral statute or affects the responsibility of any State
18 or Federal officer to comply with or enforce any
19 statute;

20 (3) creates a presumption that the reservoir
21 project will be approved or favorably reviewed by any
22 agency or a State agency acting under delegated or
23 other Federal authority; or

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

4 (g) APPLICATION.—Any action pertaining to such
5 reservoir project commenced prior to the date of enact-
6 ment of this Act shall be deemed to have complied with
7 any requirements that would have been applicable under
8 subsection (b)(1) to such action. The provisions of this Act
9 shall apply to the reservoir project as though this Act were
10 enacted into law on February 1, 2018.

