



**US Army Corps
of Engineers®**

SPECIAL PUBLIC NOTICE

PROPOSAL TO ACCEPT FUNDS FROM
The California Department of Transportation (Caltrans)

SACRAMENTO DISTRICT

Public Notice/Application No.: 200400720

Comment Period: January 8, 2010 through January 24, 2010

This Public Notice announces the preliminary intent of the Sacramento District to accept funds contributed by the California Department of Transportation (“Caltrans”). Sacramento District would allocate funds internally and distribute funds to the Los Angeles and San Francisco Districts in order to expedite processing of the California Department of Transportation’s Department of the Army (DA) permit applications, subject to a series of limitations specified below.

Section 214 of the *Water Resources Development Act of 2000* (WRDA 2000, Public Law No. 106-541 111-120) as amended, provides:

(a) The Secretary (of the Army), after public notice, may accept and expend funds contributed by non-federal public entities to expedite the evaluation of permits under the jurisdiction of the Department of the Army.

(b) In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decision making with respect to permits, either substantively or procedurally.

(c) The authority provided under this section shall be in effect from October 1, 2000 to December 31, 2010.

The Secretary of the Army has delegated this responsibility to the Chief of Engineers and his authorized representatives, including the Commander of the Sacramento District, U.S. Army Corps of Engineers. The authorization to accept and expend funds from non-Federal public entities is conditional on the extension of Section 214 of WRDA 2000.

Definition of non-Federal public entities: Non-federal public entities are comprised of state and local governmental agencies and Indian tribal governments. They include, but are not limited to, local transportation agencies desiring to expedite highway projects, port authorities wanting permits expedited for marine terminals, flood and storm water management agencies, and governmental

economic development agencies seeking to expedite permit applications for certain kinds of work, including industrial or commercial development. Caltrans meets this definition.

How the Sacramento District would expend the funds: The Corps' Regulatory Program is funded as a congressionally appropriated line item in the annual Federal budget. Additional funds received by the Sacramento District from Caltrans would be used to augment the Regulatory budgets of the Los Angeles, Sacramento, and San Francisco Districts, in accordance with the provisions of Section 214 of WRDA 2000. Each Corps District would establish a separate account to track receipt and expenditure of the funds. With the supplemental funding, each Corps District would hire additional personnel and pay for support services, both technical and administrative. A Regulatory employee would charge his/her time against a specific account when working on Caltrans' permit applications deemed a priority.

Activities for which funds will be expended: Funds would be expended primarily on the labor and overhead of Regulatory personnel processing priority permit applications designated by Caltrans. Such permit processing activities would include, but not be limited to, the following: application completeness review, jurisdictional determinations, site visits, preparation of public notices, preparation of correspondence, meetings (with the non-Federal entity, applicants, agencies and general public), coordination concerning endangered species and cultural resources, public interest review, public hearings, distribution of public notices, analysis of alternatives, compensatory mitigation proposal reviews, and preparation of environmental assessments and permit decision documents. Funds may also be expended to pay for support services or to hire independent contractors to perform select duties; such as site visits, technical writing or review of specific technical documents, such as biological assessments for endangered species and Essential Fish Habitat determinations. No enforcement or compliance activities would be paid from the augmenting funds.

If the Caltrans' funds are fully expended and are not renewed, their remaining priority permit applications would be handled like those of any other non-participant, in a manner decided by the assigned Regulatory personnel and his/her supervisor.

Procedures to be used to ensure impartial decision-making: To ensure the funds will not impact impartial decision-making, the following procedures would apply:

- a. All final permit decisions for cases where these funds are used must be reviewed at least by one level above the decision maker, unless the decision maker is the District Commander. For example, if the decision maker is the Chief of the Regulatory Division, then the reviewer would be the District Commander.
- b. All final permit decisions for cases where these funds are used will be made available on each District's web page.
- c. The Corps will not eliminate any procedures or decisions that would otherwise be required for that type of project and permit application under consideration.
- d. The Corps will comply with all applicable laws and regulations.
- e. Funds will only be expended to provide priority review of the participating non-federal entity's permit applications.

Impacts to the Regulatory Program: We do not expect priority review of Caltrans projects to negatively impact the Los Angeles, Sacramento, or San Francisco District's Regulatory Program, or to increase the time for permit evaluations of other projects since additional staff will be hired to augment this priority review.

Consideration of Comments: The Corps is soliciting comments from the public, Federal, State and local agencies, and officials, and other interested parties. Comments will be made part of the record, and they will be considered in determining whether it would be in the public interest to proceed with this action. If the Sacramento District Commander determines, after considering public comments, that the acceptance and expenditure of the funds is in compliance with the Act and is not otherwise contrary to the general public interest, then Sacramento District will implement Section 214 of WRDA 2000 through a signed memorandum of agreement and accept the funds from Caltrans. A second public notice will be issued regarding the District Commander's final decision on this matter. Beyond that, no new public notice will be issued if Caltrans increases the amount of funds previously furnished, provided that the proposed terms of acceptance and expenditure of funds remains the same.

Submission of Comments: Comments on implementing Section 214 of WRDA 2000 will be accepted and made part of the record, and they will be considered in determining whether it would be in the best public interest to proceed with this administrative practice. Interested parties may submit, in writing, any comments concerning this proposal. Comments should refer to Proposed Acceptance of Funds from the California Department of Transportation and the date of this Public Notice, and be forwarded by the comment due date. Comments must be sent to the U.S. Army Corps of Engineers, Sacramento District, Regulatory Division, ATTN: Paul Maniccia, 1325 J Street Room 1480, Sacramento, California 95814-2922. Alternatively, comments can be sent electronically to: Paul.M.Maniccia@usace.army.mil

For additional information, please contact Paul Maniccia of my staff (916)557-6704. This public notice is issued by Michael Jewell Sacramento District, Regulatory Division Chief.