



US Army Corps
of Engineers®
San Francisco District

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

SPECIAL PUBLIC NOTICE

PROPOSAL TO ACCEPT FUNDS FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES

Public Notice No: SPN-2016-00348N

Comment Period: November 3, 2016 through November 18, 2016

Project Manager: William Connor; 415-503-6631; william.m.connor@usace.army.mil

This Public Notice announces the preliminary intent of the U.S. Army Corps of Engineers (Corps), Sacramento District to accept and expend funds contributed by the California Department of Water Resources (DWR). The Sacramento District would allocate funds internally and distribute funds to the San Francisco District in order to expedite processing of DWR's Department of the Army permit applications which would implement the projects required by the United States Fish and Wildlife Service's 2008 Delta Smelt Biological Opinion and the National Marine Fisheries Service's 2009 Biological Opinion and Conference Opinion on the long-term operation of the Central Valley Project and the State Water Project, subject to a series of limitations 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, 2016.

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.

How the Corps 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 the DWR would be used to augment the Regulatory budget of the Sacramento and San Francisco Districts, in accordance with the provisions of Section 214 of WRDA 2000. Each District would establish a separate account to track receipt and expenditure of the funds.

Activities for which funds will be expended: Funds would be expended primarily on the labor and overhead of regulatory personnel processing permit applications by the Corps. Such permit processing activities could include, but not be limited to, the following: application completeness review, jurisdictional determinations, site visits, preparation of public notices, preparation of correspondence, meetings, consultation with other agencies, public interest review, distribution of public notices, analysis of alternatives, compensatory mitigation proposal reviews, preparation of environmental assessments, preparation of permit decision documents and permit compliance.

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 DWR projects to negatively impact the regulatory program, or to increase the time for permit evaluations of other projects.

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 San Francisco 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 San Francisco District will implement Section 214 of WRDA 2000 through a signed memorandum of agreement and accept the funds from the DWR. 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 the DWR 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 SPN-2016-00348N and be forwarded by the comment due date of November 17, 2016.

Comments should be sent to:
U.S. Army Corps of Engineers, San Francisco District
Regulatory Division
ATTN: William Connor
1455 Markey Street, 16th Floor
San Francisco, CA 94103-1398.

Alternatively, comments can be sent electronically to william.m.connor@usace.army.mil. For additional information, please contact William Connor of my staff at (415) 503-6631. This public notice is issued by Holly Costa, Acting Chief, San Francisco District Regulatory Division.