



# SPECIAL PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS  
LOS ANGELES DISTRICT**

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PROPOSAL TO ACCEPT AND EXPEND FUNDS FROM THE CALIFORNIA  
DEPARTMENT OF WATER RESOURCES TO EXPEDITE PERMIT APPLICATION  
REVIEW

**Public Notice No.:** SPL-2010-00199-MRL

**Comment Period:** October 3, 2018 through October 18, 2018

**Project Manager:** Michelle Lynch, 760-602-4850, [Michelle.R.Lynch@usace.army.mil](mailto:Michelle.R.Lynch@usace.army.mil)

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This Special Public Notice announces the preliminary intent of the U.S. Army Corps of Engineers, Los Angeles District (Corps) to accept and expend funds provided by the Department of Water Resources to expedite processing of their Department of the Army (DA) permit applications.

Section 214 of the Water Resources Development Act of 2000 (WRDA 2000, Public Law No. 106-541), as amended, authorizes the Secretary of the Army, after public notice, to accept and expend funds contributed by a non-Federal public entity, public-utility company, natural gas company, or railroad carrier to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose under the jurisdiction of the Department of the Army. The authority to accept and expend funds under Section 214 has been delegated from the Secretary of the Army to District and Division Commanders, including the Commander of the Los Angeles District, U.S. Army Corps of Engineers. The authority to accept and expend funds from non-Federal public entities was made permanent by the passage of the Water Resources Reform and Development Act (WRRDA) of 2014 (Public Law No. 113-121) on June 10, 2014.

As a result of amendments to Section 214 of WRDA from the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016 (Public Law 114-322), the authority to accept and expend funds from public-utility companies, natural gas companies, and railroad carriers expires on June 10, 2024, unless otherwise extended or revoked by law.

**Definition of non-Federal public entities:** Non-Federal public entities include state and local governmental agencies or government public authorities, as well as federally-recognized Indian Tribes. Examples of non-Federal public entities include, but are not limited to, local transportation agencies, port authorities, and flood and storm water

SUBJECT: Funding Agreement between the Department of Water Resources and the Los Angeles District of the U.S. Army Corps of Engineers (Corps) Pursuant to Section 214 of the Water Resources Development Act (WRDA) of 2000, as amended and codified at 33 U.S.C. § 2352.

management agencies. One or more non-Federal public entities may enter into a Section 214 funding agreement with the Corps.

**How the Corps would expend the funds:** The Corps' Regulatory Program is funded as a congressionally appropriated line item in the annual Federal budget. Funds received from the Department of Water Resources will be added to the Regulatory budget of the Los Angeles District, in accordance with the provisions of section 214 of WRDA 2000, as amended. The Los Angeles District, Regulatory Division, would establish a separate account to track receipt and expenditure of the funds. Los Angeles District employees would charge their time against such account when working on Department of Water Resources permit applications deemed a priority.

**Activities for which funds will be expended:** Funds would be expended primarily on the labor and overhead of Los Angeles District personnel processing priority permit applications designated by the Department of Water Resources. Such permit application 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, coordination concerning endangered species and cultural resources, public interest review, 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 to perform select duties; such as site visits, technical writing or review of specific technical or legal documents, such as biological assessments for endangered species, cultural resources surveys, Essential Fish Habitat determinations, and State coastal zone management consistency concurrence. No enforcement activities would be paid from monies received from the Department of Water Resources.

**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) The Corps will ensure that the evaluation of permits carried out using funds accepted from the Department of Water Resources are reviewed at least one level above the decision maker, unless the decision maker is the District Commander, then the Commander of the Corps Division in which the District is located, would review the permit decision. For example, if the decision maker is the Chief of the Regulatory Division, then the reviewer would be the District Commander.

(b) The Corps will ensure that all final permit decisions carried out using accepted funds from the Department of Water Resources are made available to the public, including on the Internet at: [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=340:9:0::NO::](http://corpsmapu.usace.army.mil/cm_apex/f?p=340:9:0::NO::)

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(c) The Corps will utilize the same procedures for decisions that would otherwise be required for the evaluation of permits for similar type projects or activities not carried out using funds accepted from the Department of Water Resources.

(d) The Corps will comply with all applicable laws and regulations.

(e) The Corps will only expend funds accepted from the Department of Water Resources to provide priority review of permit applications, and will not use them to carry out a review of the evaluation of permits, as required under (a) above.

**Impacts to the Regulatory Program:** We do not expect priority review of the Department of Water Resources projects to negatively impact Los Angeles District's Regulatory Program or to increase the time for permit application evaluations of other projects since additional staff have been hired or retained, with the funds previously received from the Department of Water Resources, 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 Los Angeles 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 Los Angeles District, Regulatory Division, will implement section 214 of WRDA 2000, as amended, through a signed memorandum of agreement and accept the funds from the Department of Water Resources. 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 Department of Water Resources increases the amount of funds previously furnished, provided that the proposed terms of acceptance and expenditure of funds remain the same.

**Submission of Comments:** Comments on implementing section 214 of WRDA 2000, as amended, 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 SPL-2010-00199 and be forwarded by the comment due date of October 18, 2018.** Comments must be sent to the U.S. Army Corps of Engineers, Los Angeles District, Regulatory Division, ATTN: Michelle Lynch, 5900 La Place Court, Suite 100, Carlsbad, CA 92008. Alternatively, comments can be sent electronically to [Michelle.R.Lynch@usace.army.mil](mailto:Michelle.R.Lynch@usace.army.mil).

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*Regulatory Program Goals:*

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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**DEPARTMENT OF THE ARMY  
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS**

Carlsbad Field Office  
5900 La Place Ct., Suite 100  
Carlsbad, CA 92008

[WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY](http://WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY)