



Public Notice

U.S. ARMY CORPS OF ENGINEERS

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Subject: Public Notice of Permit Application

Action IDs: SPK-2008-00861

Comments Period: March 27 to April 11, 2012 (15 Days)

SUBJECT: Proposal to accept funds from the California Department of Water Resources for the Bay Delta Conservation Plan.

This Public Notice announces the preliminary intent of the U.S. Army Corps of Engineers, Sacramento District (Corps) to accept funds contributed by the California Department of Water Resources (DWR) for the Bay Delta Conservation Plan (BDCP) in order to expedite processing of their permit applications, 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.

Definition of non-Federal public entities: Non-Federal public entities are comprised of state and local governmental agencies and tribal governments. The DWR meets this definition.

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 DWR would be used to augment the budget of the Corps in accordance with the provisions of Section 214 of WRDA 2000, as amended. The Corps would establish a separate account to track the 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 DWR for the BDCP. 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, consultation with other agencies, public interest review, distribution of public notices, analysis of alternatives, compensatory mitigation proposal reviews, preparation of environmental assessments, and preparation of permit decision documents. Funds may also be expended to pay for support services or to hire independent contractors.

U.S. ARMY CORPS OF ENGINEERS – Sacramento District

1325 J Street, Room 1350, Sacramento, CA 95814-2922

<http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/index.html>

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 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 applications where these funds are expended will be made available on the Sacramento District 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 BDCP projects to negatively impact the 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 Section 214 of WRDA 2000 as amended, the Corps will implement the act through a signed memorandum of agreement and accept funds from DWR. A second public notice will be issued regarding the final decision on this matter.

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 SPK-2008-00861 and be forwarded by the comment due date of April 11, 2012.** Comments must be sent to the U.S. Army Corps of Engineers, Sacramento District, Regulatory Division, ATTN: Michael Nepstad, 1325 J Street, Sacramento, California 95814-2922. Alternatively, comments can be sent electronically to Michael.g.nepstad@usace.army.mil