US Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814

Special Public Notice

Date: February 1, 2005
Comments Due: March 3, 2005

In reply, please refer to the Non-Federal Funded Regulatory Positions

This Public Notice announces the proposed intent of the Sacramento District to accept and expend funds contributed by the following non-federal public entities for priority evaluation of their Department of the Army (DA) permit applications, subject to the limitations specified below.

- City of Rancho Cordova
- City of Roseville

The *Water Resources Development Act of 2000* (WRDA 2000, Public Law No. 106-541) as amended, allows the Corps to accept funds from non-federal public entities to provide priority review of their permit applications. Section 214 of WRDA 2000 reads as follows:

"(a) IN GENERAL. -In Fiscal Years 2001 through 2003, 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) EFFECT ON PERMITTING-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."

Section 114 of the Energy and Water Development Appropriations Act 200 (EWDA 2004; Public Law 108-137) states:

"Section 114. Section 214(a) of Public Law 106-541 is amended by striking "2003" and inserting "2005".

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 current authorization to accept and expend funds from non-Federal public entities expires on September 30, 2005.

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 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 a non-Federal public entity would be used to augment the Sacramento District Regulatory budget, in accordance with the provisions of WRDA 2000 and EWDA 2004. The Sacramento District would establish a separate account for each entity to track receipt and expenditure of the funds. With the supplemental funding, the Sacramento District would hire additional personnel and pay for support services, both technical and administrative. A Sacramento District Regulatory employee would charge his/her time against a specific account when working on the non-federal entity's priority permit applications.

Activities for which funds will be expended: Funds would be expended mainly on the labor and overhead of Regulatory personnel processing priority permit applications designated by each entity. Such permit processing activities would include, but not be limited to, the following: application completeness review, jurisdictional determinations, site visits, preparation of public notices, public hearings, preparation of correspondence, meetings (with the non-Federal entity, applicants, agencies and general public), coordination concerning endangered species and cultural resources, public interest review, 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 items, such as biological assessments for endangered species and Essential Fish Habitat determinations, and other technical documents.

If any of the non-federal entity funds are fully expended and are not renewed, an entity's 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 Branch, then the reviewer would be the Chief of the Construction-Operations Division.

b. All final permit decisions for cases where these funds are used 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 application.

Impacts to the Regulatory Program: We do not expect priority review of these non-federal entities' projects to negatively impact the Sacramento 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 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, the Sacramento District will implement Section 214 of WRDA 2000 and accept the funds from one or more of the non-federal entities identified above. A second public notice will be issued regarding the District Commander's final decision on this matter.

Submission of Comments: Interested parties may submit, in writing, any comments concerning this proposal. Comments should refer to Non-Federal Funded Regulatory Positions and the date of this Public Notice, and must be forwarded by the comment due date. Comments must be sent to the U.S. Army Corps of Engineers, Sacramento District, Regulatory Branch, ATTN: Michael Jewell, 1325 J Street, Room 1480, Sacramento, California 95814.

If you have any questions, please contact Michael Jewell by telephone at 916.557.5254 or by email at michael.s.jewell@usace.army.mil.