



SPECIAL PUBLIC NOTICE

PROPOSAL TO ACCEPT FUNDS FROM THE CALIFORNIA HIGH SPEED RAIL
AUTHORITY TO EXPEDITE SECTION 408 PERMIT APPLICATION REVIEW

**U.S. ARMY CORPS OF ENGINEERS
SACRAMENTO DISTRICT**

BUILDING STRONG®

Public Notice No.: SPK-408-CHSRA-WRDA214

Comment Period: APRIL 13, 2020 - APRIL 28, 2020

Project Manager: Kim Leonard; (916) 557-7183; Kimberlee.K.Leonard@usace.army.mil

This Special Public Notice announces the preliminary intent of the U.S. Army Corps of Engineers' ("Corps") Sacramento District, to accept funds contributed by the California High Speed Rail Authority ("Authority") in order to expedite processing of their Section 408 requests, subject to a series of limitations below:

Section 214 of the Water Resources Development Act of 2000 (WRDA 2000, Public Law No. 106-541), as amended by Public Law 113-121, provides:

- (a) FUNDING TO PROCESS PERMITS. -
 - (2) Permit Processing. - The Secretary, after public notice, may accept and expend funds contributed by a non-Federal public entity or a public utility company or natural gas company to expedite the evaluation of a permit of that entity or company related to a project or activity for a public purpose under the jurisdiction of the Department of the Army.
- (b) EFFECT ON PERMITTING. -
 - (1) IN GENERAL. - In carrying out this section, the Secretary shall ensure that the use of funds accepted under sub-section (a) will not impact impartial decision making with respect to permits, either substantively or procedurally.

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: The term "non-federal public entity" is limited to governmental agencies or governmental public authorities, including governments of federally recognized Indian tribes, i.e., any Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C 479(a)), provided that the proposed alteration serves a public purpose. The Authority meets this definition.

How the Corps would expend the funds: The Corps' Section 408 Program is funded as a congressionally appropriated line item in the annual Federal budget. Additional funds received from the Authority would be used to augment the budget of the Corps' Sacramento District Section 408 Program and expedite review of Section 408 requests from the Authority, in accordance with the provisions of Section 214 of WRDA 2000, as amended. The Corps' Sacramento District would establish a separate account to track receipt and expenditure of the funds. Sacramento District employees would charge their time against such account when working on the Authority's section 408 permit applications.

Activities for which funds will be expended: Funds would be expended primarily for the labor and overhead of Sacramento District personnel when processing the Authority's Section 408 requests. Such processing activities would include, but would not be limited to, the following: application completeness review, jurisdictional determinations, site visits, preparation of public notices, preparation of correspondence, meetings, coordination and consultation with other agencies, public interest review, distribution of public notices, analysis of alternatives, compensatory mitigation proposal reviews, and preparation of environmental assessments, preparation of decision documents, and application 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) In order to preserve impartial decision making, the funds cannot be used by the final decision-maker for his or her review, recommendations, or decision concerning a Section 408 request.
- (b) All final 408 decisions for requests where these funds are expended will be made available on the Corps Headquarters 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 Authority's permit requests.

Impacts to the Section 408 Program: The Corps' Sacramento District does not expect priority review of the Authority's projects to negatively impact the Section 408 program or to increase the time for evaluations of other projects since additional staff may be hired to augment these priority reviews.

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, then Corps' Sacramento District will implement section 214 of WRDA 2000, as amended, through a signed memorandum of agreement and accept the funds from the Authority. 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.

Submission of Comments: Comments on the proposal to accept and expend funds contributed by the Authority pursuant to 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 be forwarded by the comment due date of April 28, 2020. Comments must be sent to:

U.S. Army Corps of Engineers,
Sacramento District, Operations Division,
ATTN: Kim Leonard,
1325 J Street,
Sacramento, California 95814

Alternatively, comments can be sent electronically to: CESPk-408-PN@usace.army.mil.

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

Sacramento District, Operations Division

1325 J Street

Sacramento, California 95814

WWW.SPK.USACE.ARMY.MIL/408PERMISSIONS/