



SPECIAL PUBLIC NOTICE

DECISION TO ACCEPT FUNDS FROM THE PACIFIC GAS & ELECTRIC COMPANY TO EXPEDITE SECTION 408 PERMIT APPLICATION REVIEW

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

BUILDING STRONG®

Public Notice No.: SPK-408-PGE-WRDA214-DECISION

Comment Period: SEPTEMBER 20, 2021 – OCTOBER 04, 2021

Point of Contact: 408 Permission Section; CESPK-408-PN@usace.army.mil

This Special Public Notice announces the final decision, as accepted in a memorandum of agreement and documented in a memorandum for record, of the U.S. Army Corps of Engineers' ("Corps") Sacramento District, to accept funds contributed by the Pacific Gas & Electric Company ("PG&E") 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 Public-Utility Companies: Public-utility companies include the following two subcategories: (i) electric utility companies, which are companies that own or operate facilities used for the generation, transmission, or distribution of electric energy for sale; and (ii) gas utility companies, which are companies that own or operate facilities used for distribution at retail of natural or manufactured gas for heat, light, or power (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale. The PG&E 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 PG&E will be used to augment the budget of the Corps' Sacramento District Section 408 Program and expedite review of Section 408 requests from the PG&E, in accordance with the provisions of Section 214 of WRDA 2000, as amended. The Corps' Sacramento District will establish a separate account to track receipt and expenditure of the funds. Sacramento District employees will charge their time against such account when working on the PG&E's Section 408 permit applications.

Activities for which funds will be expended: Funds will be expended primarily for the labor and overhead of Sacramento District personnel when processing the PG&E's Section 408 requests. Such processing activities will include, but will 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 PG&E's permit requests.

Impacts to the Section 408 Program: The Corps' Sacramento District does not expect priority review of the PG&E'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.

Final Decision: The Corps has solicited comments from the public, Federal, State, local agencies and officials, and other interested parties. The District Commander has determined, 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 Corps' Sacramento District will implement section 214 of WRDA 2000, as amended, through a signed memorandum of agreement and accept the funds from the PG&E.

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/