



SPECIAL PUBLIC NOTICE

DECISION TO ACCEPT FUNDS FROM THE STOCKTON EAST WATER DISTRICT TO EXPEDITE SECTION 408 PERMISSION APPLICATION REVIEW

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

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

Comment Period: August 09, 2023 – August 24, 2023

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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' ("USACE") Sacramento District, to accept funds contributed by the Stockton East Water District (SEWD) 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, natural gas company, public utility company, or railroad carrier 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 SEWD meets this definition.

How the USACE would expend the funds: The USACE Section 408 Program is funded as a congressionally appropriated line item in the annual Federal budget. Additional funds received from the SEWD would be used to augment the budget of the USACE Sacramento District Section 408 Program and expedite review of Section 408 requests from the SEWD, in accordance with the provisions of Section 214 of WRDA 2000, as amended. The USACE 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 SEWD 408 permissions requests.

Activities for which funds would be expended: Funds would be expended primarily for the labor and overhead of Sacramento District personnel when processing the SEWD's section 408 requests. Such processing activities would include, but would not be limited to, the following: request 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 request 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 USACE Headquarters web page.
- (c) The USACE will not eliminate any procedures or decisions that would otherwise be required for that type of project and permission request under consideration.
- (d) The USACE will comply with all applicable laws and regulations.
- (e) Funds will only be expended to provide priority review of the SEWD's permission requests.

Impacts to the Section 408 Program: The USACE Sacramento District does not expect priority review of the SEWD'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 USACE 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 USACE Sacramento District will implement Section 214 of WRDA 2000, as amended, through a signed memorandum of agreement and accept the funds from the SEWD.

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

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