SPECIAL PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS **BUILDING STRONG®**
LOS ANGELES DISTRICT

PROPOSAL TO ACCEPT FUNDS FROM THE COACHELLA VALLEY WATER DISTRICT

Public Notice/Application No.: SPL-2013-324-TOB
Project: WRDA Coachella Valley Water District
Comment Period: May 3 to May 18, 2013
Project Manager: Therese Bradford; Tel. 760-602-4850; therese.o.bradford@usace.army.mil

Applicant
J.M. Barrett, General Manager
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Contact
Steve Bigley, Environmental Services Manager
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Location
Specific Coachella Valley Water District projects throughout the Coachella Valley in Riverside and Imperial Counties.

Activity
This Special Public Notice announces the preliminary intent of the District Commander, Los Angeles District, U.S. Army Corps of Engineers ("Los Angeles District") to accept and expend funds contributed by the Coachella Valley Water District to expedite processing of their Department of the Army (DA) permit applications, subject to a series of limitations pursuant to Section 214 of the Water Resources Development Act (WRDA) of 2000, Public Law 106, as amended. For more information, see page 3 of this notice.

This Special Public Notice also solicits comments from the general public on the subject of acceptance and expenditure of funds contributed by these non-Federal public entities to expedite the evaluation of DA permit applications. Comments should be mailed to:

LOS ANGELES DISTRICT, CORPS OF ENGINEERS
REGULATORY DIVISION, CARLSBAD FIELD OFFICE
ATTN: THERESE BRADFORD
6010 HIDDEN VALLEY ROAD, SUITE 105
CARLSBAD, CALIFORNIA 92011

Alternatively, comments can be sent electronically to therese.o.bradford@usace.army.mil .

SUPPLEMENTAL INFORMATION

On December 11, 2000, the Water Resources Development Act of 2000 (WRDA 2000, Public Law No. 106-541) was signed into law by the President of the United States.

Section 214 of WRDA 2000 reads as follows:

EFFECT ON PERMITTING

(a) IN GENERAL - The Secretary, after public notice, may accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose under the jurisdiction of the Department of the Army.

(b) IMPARTIAL DECISIONMAKING - In carrying out this section, the Secretary shall ensure that the evaluation of permits carried out use of funds accepted under subsection (a) will not impact impartial decision making with respect to permits, either substantively or procedurally.

The sunset clause for Section 214 of WRDA 2000 was extended to December 31, 2006 by Public Law 109-209, signed into law March 24, 2006. The Water Resources Development Act of 2007 (Public Law 110-114) extended the expiration for Section 214 of WRDA 2000 to December 31, 2009. Public Law 111-315 modified section 214 of WRDA 2000 and extended the sunset provision to December 31, 2016.

The Secretary of the Army has delegated decision-making responsibility on the acceptance of funds pursuant to WRDA Section 214 to the Chief of Engineers and his authorized representatives, including the Commander of the Los Angeles, U.S. Army Corps of Engineers (Los Angeles District).

With this Public Notice, we also want to discuss the following subjects:

- Definition of non-Federal public entities,
- How the Los Angeles District would expend the funds,
- The kinds of activities for which funds would be expended,
- Procedures we will use to ensure that the funds will not impact impartial decision making,
- Benefits non-Federal public entities would receive from their funds, and
- Impacts we foresee to our regulatory program and to DA permit evaluations that are not subsidized by funds contributed by non-Federal public entities.

Definition of Non-Federal Public Entities: Non-Federal public entities are comprised of various forms 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, diking districts, or governmental economic development agencies seeking to expedite permit applications for certain kinds of work, including industrial or commercial development. Two or more non-Federal public entities could jointly fund a single account. Participating entities are typically public agencies with a number of permit applications being simultaneously considered by the Los Angeles District for regulatory permits and enough future projects in the planning stage to warrant this form of funding agreement.

How the Los Angeles District Would Expend Funds: The Corps of Engineers' regulatory program is funded as a congressionally appropriated line item in the annual Federal budget. Additional funds

received from non-Federal public entities would be used in accordance with the provisions of section 214 of WRDA 2000. The Los Angeles District would establish a separate account to track receipt and expenditure of the funds. Los Angeles District regulatory employees would charge their time against the respective account when they did work to expedite evaluation of permit requests or programmatic initiatives. With an increased regulatory budget, the Los Angeles District would hire additional employees, paying salaries from the non-Federal public entity funding to the degree the employees work on expediting those entities' permit applications and other tasks that serve to expedite the evaluation of that funding agency's permit applications.

Activities for which Funds will be Expended: Funds would mainly be expended on the salaries and overhead of Regulatory Project Managers performing expedited processing activities. Such activities would include, but not be limited to, the following tasks: application intake review, drawings correction, jurisdictional determinations, site visits, public notice preparation, preparation of correspondence, conduct of the public interest review, preparation of environmental review documents and draft permit decision documents, program-related training, and meetings with the applicant and other agencies. No funds would be expended for review of project managers' work by supervisors, other elements of the Los Angeles District unrelated to the identified work in the agreement, or other persons in the decision-making chain of command. No enforcement activities would be paid from the augmenting funds.

Funds may also be expended by other Corps elements (e.g. Environmental Resources Branch, Office of Counsel, or Engineering Division), or to hire contractors to perform select services such as site visits, technical writing, copying, technical contracting for review of specific items such as biological assessments for endangered species, or cultural resources, preparing regional general permits, Essential Fish Habitat determinations, and other technical documents, including draft environmental documents.

If funds are expended and are not renewed, their remaining permit applications would no longer be expedited. They would be handled like those of any other non-participant, in a manner decided by the assigned regulatory project manager and his or her supervisor.

Procedures to be Used to Ensure Impartial Decision Making: To ensure that the funds will not impact the Corps' impartial decision-making process, the following procedures, mandated from Headquarters, U.S. Army Corps of Engineers, would apply to all cases using additional funds provided by the participating non-Federal public entities:

(a) All final permit decisions for cases where these funds are used must be reviewed at least by one level above normal level the decision maker, unless the decision maker is the District Commander.

(b) All final permit decisions for cases where these funds are used will be made available on the Los Angeles District Regulatory web page.

(c) The Los Angeles District will not eliminate any procedures, evaluations, or decisions that would otherwise be required for that type of project and permit application under consideration.

(d) The Los Angeles District must comply with all applicable laws and regulations.

(e) Funds will only be expended to expedite the final decision on the permit application. Funds will not be expended for the review of the decision maker's decision. If contracts are used to develop decision documents, such decision documents must be drafts only and be reviewed and adopted by the Corps regulatory program employees, before the decision is made.

The Benefits Non-Federal Public Entities would Receive from their Funds: In general, the workload of the Los Angeles District Regulatory Division has increased significantly due to a number of factors including listing of various species and their designated critical habitats under the Endangered Species Act (ESA) over the last five years. The large number of projects, combined with increased concern over water quality parameters, endangered species, wetlands, new mitigation regulations, and response to emergencies have also increased the workload of the Los Angeles District Regulatory Division. The resulting backlog of applications has increased as well as the average permit application processing time.

Section 214 of WRDA 2000 is designed to enable the Los Angeles District regulatory program to expedite the processing of public projects. Participating agencies can expect some of their permit applications to receive expedited handling, and can assist in setting priorities among their pending permit applications. Their augmentation of our regulatory budget would allow us to hire additional people, increasing the size of the pool from which we would assign people to expedite these applications. The result for participants should be streamlined permit processing, new tools to resolve ESA issues, and a more predictable time-line for obtaining permit authorizations.

Impacts to the Regulatory Program: We do not expect this method of expediting the permit review of certain public projects to negatively impact the Los Angeles District's regulatory program, or to increase the waiting time for permit evaluations that are not supported by funds contributed by non-Federal public agencies. Reference documents and programmatic tools developed by public entity funding will also be available to the general public. We expect the benefits of implementing this program to translate into an enhanced evaluation capability for all permit applicants.

Consideration of Comments: This public notice has a 15-day comment period. Following the review of comments received, the Los Angeles District Commander will determine if acceptance and expenditure of the funds is in compliance with Section 214 of WRDA 2000. 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 Los Angeles District will proceed to accept and expend such funds from City of San Diego Transportation and Storm Water Department. Funds will be accepted only if the public interest is better served through cost-effectiveness, enhanced evaluation capability, streamlined permit processing, or other appropriate justification. A final public notice will be issued regarding the District Commander's decision. Beyond that, no new public notice will be issued if a participating non-Federal public entity increases the amount of funds previously furnished, provided the purpose remains the same.

Submission of Comments: Comments on implementing section 214 of WRDA 2000 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. Comments should reach this office not later than the expiration date of this public notice (see the address on page one of this public notice).

For additional information, please contact Therese Bradford of my staff at 760-602-4850 or via e-mail at therese.o.bradford@usace.army.mil . This public notice is issued by the Chief, Regulatory Division.

Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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