

**US Army Corps
of Engineers®**

SPECIAL PUBLIC NOTICE

DECISION TO ACCEPT FUNDS FROM
THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY

LOS ANGELES DISTRICT

Public Notice/Application No.: SPL-2009-00623-VCC

Public Notice Date: May 10, 2010

Project Manager: Veronica C. Chan (213) 452-3292; Email – Veronica.C.Chan@usace.army.mil

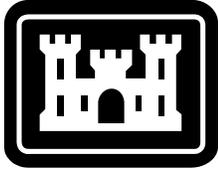
Following an initial public notice circulated on December 29, 2009, this Special Public Notice announces that the District Commanders of the Los Angeles and Sacramento Districts of the U.S. Army Corps of Engineers (“Corps”) have decided to accept and expend funds contributed by the California High-Speed Rail Authority (the “Authority”). The San Francisco District issued a public notice regarding the proposal to accept funds on April 21, 2010. The Los Angeles District would allocate funds internally and distribute funds to the Sacramento District and the San Francisco District (pending approval by the District Commander) in order to expedite processing of the Authority’s Department of the Army (DA) permit applications. Though the Authority would receive more expeditious reviews of their permit applications, procedural and substantive requirements of the DA permit application review process remain unchanged. The decision to accept funds is in response to the multiple, large, and complex DA permit applications that will be submitted by the Authority, and the need to devote significant staff time to these applications in order to ensure the Authority and the public are best served throughout the permit evaluation process. The decision to accept funds does not constitute any endorsement or implied consent of Authority proposed projects; rather, it will enable Corps Regulatory personnel to devote the attention required to these applications, in both a timelier and more thorough manner, benefiting both the Authority and the public.

Copies of the relevant documents related to this decision, as well as any future permit decisions evaluated by Authority-funded Corps Regulatory personnel, can be viewed at the respective Corps’ District Regulatory webpages:

http://www.spl.usace.army.mil/regulatory/WRDA_page.htm

<http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/WRDA.html>

<http://www.spn.usace.army.mil/regulatory/WRDA.html>



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SPECIAL PUBLIC NOTICE

PROPOSAL TO ACCEPT FUNDS FROM
THE CALIFORNIA HIGH SPEED RAIL AUTHORITY

LOS ANGELES DISTRICT

Public Notice/Application No.: SPL-2009-00623-VCC

Comment Period: December 29, 2009 through January 29, 2010

Project Manager: Veronica C. Chan (213) 452-3292; Email – Veronica.C.Chan@usace.army.mil

This Public Notice announces the preliminary intent of the Los Angeles District to accept funds contributed by the California High Speed Rail Authority (the "Authority"). The Los Angeles District would allocate funds internally and distribute funds to the Sacramento and San Francisco Districts in order to expedite processing of the California High Speed Rail Authority's Department of the Army (DA) permit applications, subject to a series of limitations specified below.

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

(a) 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) 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.

(c) The authority provided under this section shall be in effect from October 1, 2000 to December 31, 2009.

The Secretary of the Army has delegated this responsibility to the Chief of Engineers and his authorized representatives, including the Commander of the Los Angeles District, U.S. Army Corps of Engineers. The authorization to accept and expend funds from non-Federal public entities is conditional on the extension of Section 214 of WRDA 2000.

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. The Authority meets this definition.

How the Los Angeles 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 Los Angeles District from the Authority would be used to augment the Regulatory budgets of the Los Angeles, Sacramento, and San Francisco Districts, in accordance with the provisions of Section 214 of WRDA 2000. Each Corps District would establish a separate account to track receipt and expenditure of the funds. With the supplemental funding, each Corps District would hire additional personnel and pay for support services, both technical and administrative. A Regulatory employee would charge his/her time against a specific account when working on the Authority's permit applications deemed a priority.

At this time, we would like to make you aware that, in the future, each Corps District may also consider accepting and expending funds to expedite evaluations of permits for modification and alteration of Corps of Engineers Projects pursuant to 33 U.S.C. 408. A separate public notice would be issued soliciting public comments prior to any Corps decision to accept such funds for that purpose.

Activities for which funds will be expended: Funds would be expended primarily on the labor and overhead of Regulatory personnel processing priority permit applications designated by the Authority. Such permit processing activities would include, but not be limited to, the following: application completeness review, jurisdictional determinations, site visits, preparation of public notices, preparation of correspondence, meetings (with the non-Federal entity, applicants, agencies and general public), coordination concerning endangered species and cultural resources, public interest review, public hearings, distribution of public notices, 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 technical documents, such as biological assessments for endangered species and Essential Fish Habitat determinations. No enforcement or compliance activities would be paid from the augmenting funds.

If the Authority's funds are fully expended and are not renewed, their 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 Division, then the reviewer would be the District Commander.
- b. All final permit decisions for cases where these funds are used will be made available on the Los Angeles District web page and the web page of the District where the permit originated.
- 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 applications.

Impacts to the Regulatory Program: We do not expect priority review of the Authority's projects to negatively impact the Los Angeles, Sacramento, or San Francisco 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 Los Angeles 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 implement Section 214 of WRDA 2000 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 if the Authority increases the amount of funds previously furnished, provided that the proposed terms of acceptance and expenditure of funds 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. Interested parties may submit, in writing, any comments concerning this proposal. Comments should refer to Proposed Acceptance of Funds From The California High Speed Rail Authority and the date of this Public Notice, and be forwarded by the comment due date. Comments must be sent to the U.S. Army Corps of Engineers, Los Angeles District, Regulatory Branch, ATTN: Veronica Chan, P.O. Box 532711, Los Angeles, California 90053-2325. Alternatively, comments can be sent electronically to: Veronica.C.Chan@usace.army.mil

For additional information, please call Veronica C. Chan of my staff (213) 452-3292. This public notice is issued by the Chief, Los Angeles District Regulatory Division.

Curt Pringle, Chairman
Tom Umberg, Vice-Chair
Russell Burns
David Crane
Rod Diridon, Sr.*
Fran Florez*
Richard Katz
Judge Quentin L. Kopp*
Lynn Schenk
*past chair



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REGULATORY DIVISION
LOS ANGELES OFFICE



CALIFORNIA HIGH-SPEED RAIL AUTHORITY

September 25, 2009

Mr. Mark D. Cohen, Assistant Chief
Los Angeles District Regulatory Branch
U.S. Army Corps of Engineers
911 Wilshire Boulevard
Los Angeles, CA 90017

**Re: Funding of Corps Staff to Work on the
California High-Speed Train Project**

Dear Mr. Cohen:

The California High-Speed Rail Authority (Authority) is interested in providing some level of staff funding to the U.S. Army Corps of Engineers (Corps) for work on the California High-Speed Train (HST) project. The project will require significant coordination with the Corps for the review of environmental documents and the processing of permit applications.

As you are aware, the Authority and the Federal Railroad Administration (FRA) have or will soon initiate the joint preparation of a project Environmental Impact Statement and Environmental Impact Report (EIS/EIR) for ten sections of the proposed 800-mile HST system between the San Francisco Bay Area and Los Angeles via the Central Valley, with extensions to San Diego and Sacramento. These ten studies are to evaluate project-related environmental impacts for the following HST sections:

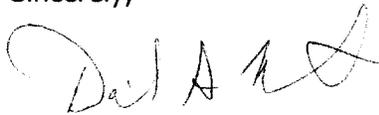
- San Francisco to San Jose
- San Jose to Merced
- Merced to Sacramento
- Merced to Fresno
- Fresno to Bakersfield
- Bakersfield to Palmdale
- Palmdale to Los Angeles
- Los Angeles to Anaheim
- Los Angeles to San Diego
- Altamont Corridor, from Stockton to San Jose

Given the number of ongoing environmental studies and the complexity of the overall project, we feel it would benefit the Corps and the Authority to have staff dedicated to reviewing HST documents and processing permit applications. The Corps would benefit by having these individuals evaluating HST work products which would free up other Corps staff to work on non-Authority projects. The Authority would benefit by having our materials reviewed on a timely basis, well as having continual access to a Corps staff person to answer questions, provide direction, and attend meetings.

Page Two
Mr. Mark Cohen
September 25, 2009

We would like to meet with you at your earliest convenience to further discuss our proposal and answer any questions you may have, as well as work out specific details. Please contact me at (916) 322-1397 or via email at dleavitt@hsr.ca.gov. We appreciate your assistance with this matter and look forward to our continuing partnership with the Corps on the HST project.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Leavitt". The signature is fluid and cursive, with a large initial "D" and a stylized "L".

Dan Leavitt
Deputy Director

cc: Veronica Chan, U.S. Army Corps of Engineers ✓
Mehdi Morshed and Carrie Pourvahidi, CA High-Speed Rail Authority
David Valenstein, Federal Railroad Administration
Christine Sproul and George Spanos, CA Attorney General's Office