



**US Army Corps  
of Engineers®**

# SPECIAL PUBLIC NOTICE

DECISION TO ACCEPT  
ADDITIONAL FUNDS FROM THE  
PORT OF LOS ANGELES

*LOS ANGELES DISTRICT*

**Public Notice Date:** October 17, 2007

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The purpose of this Special Public Notice is to announce that the Los Angeles District, U.S. Army Corps of Engineers (Corps) has decided to continue accepting and expending funds contributed by the Port of Los Angeles (Port) under a new 3-year Memorandum of Agreement (MOA) with the Port. The current 1-year MOA between the Corps and the Port that addressed the acceptance and expenditure of funds pursuant to Water Resources Development Act Section 214 is expiring 02 November 2007. These funds would continue to be used to increase Corps resources available to evaluate and process the Port's Department of the Army (DA) permit applications. Though the Port would continue to receive more expeditious reviews of their permit applications, the Corps would ensure that regulatory permit decision-making remains impartial and that all applicable procedural and substantive requirements of the DA permit application review process remain unchanged. The decision to accept additional funds is in response to the success of the expiring 1-year MOA, the large number of DA permit applications that continue to be submitted by the Port of Los Angeles, and the ongoing need to devote significant staff time to these applications to ensure the Port and the public are best served throughout the permit evaluation process. The decision to enter into a new agreement to accept additional funds does not constitute any endorsement or implied consent to the Port of Los Angeles permit applications; rather, it enables Corps staff to devote the attention required to these applications, in both a more timely and more thorough manner, benefiting both the Port and the public.

Colonel Thomas H. Magness, Commander of the Corps Los Angeles District has determined that acceptance and expenditure of additional funds would be in accordance with Section 214 of the *Water Resources Development Act of 2000* (WRDA 2000, Public Law 106-541 as amended by Public Laws 108-137, 109-99, 109-209, and 109-434). The Memorandum documenting his decision is attached. This Memorandum references a similar Memorandum of Decision signed by Colonel Alex C. Dornstauder, the previous District Commander, which supported acceptance and expenditure of such funds under the expiring 1-year MOA. On December 23, 2002, the Los Angeles District circulated the initial Special Public Notice announcing our preliminary intent to accept and expend such funds, and stated that we had initiated funding discussions with the Port of Los Angeles. The December 2002 Special Public Notice also discussed the types of activities for which funds would be expended, and the safeguarding procedures that would be used to ensure that the funds will not impact impartial decision making. Those procedures include the following:

- All final permit decisions for cases where these funds are used must be reviewed at least one level above the normal decision-maker, unless the decision-maker is the District Commander. For example, if the decision-maker were the Regulatory Division Chief, then the decision-maker for that permit action would be raised to the District Engineer.
- All final permit decisions for cases where these funds are used will be made available on the Los Angeles District Regulatory Division web page.
- The Los Angeles District will not eliminate any procedures or evaluations that would otherwise be required for that type of project and permit application under consideration.
- The Los Angeles District must comply with all applicable laws and regulations.
- Contributed Port funds will not be expended for supervisory or management review of staff-generated permit decision recommendations. Also, funds would not be used for processing administrative appeals of any decisions on Port permit applications. If Port funds are used to hire contractors in support of the Corps permit evaluation process, such contractor products will be drafts only and be reviewed by Corps regulatory program employees, before they are utilized in support of any Corps permit decision.

Under the expiring 1-year agreement, we have submitted quarterly reports to the Port of Los Angeles itemizing the funds expended and ongoing and completed activities by project, anticipated expenditures and activities by project in the next quarter, and opportunities for improved efficiency and coordination. The two permit decisions to date, posted on our Regulatory Division's web page, have been approved by the Regulatory Division's North Coast Branch Chief, who is one level higher than the Senior Project Manager assigned to evaluate these Port of Los Angeles applications. We have noted improved responsiveness, while maintaining product integrity, by having staff available to answer questions and to evaluate these applications, on both small projects and on large projects involving more rigorous NEPA review.

Copies of the relevant documents related to this decision to continue accepting and expending Port funds under a new 3-year MOA, as well as any permit decisions in the future, which were evaluated by Corps staff using such funds, can be viewed at the Corps Regulatory Division web page at <http://www.spl.usace.army.mil/regulatory/POLA.htm>.



DEPARTMENT OF THE ARMY  
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REPLY TO  
ATTENTION OF

CESPL-RG

MEMORANDUM OF DECISION

11 October 2007

SUBJECT: Regulatory Program Funds Contributed by Non-Federal  
Public Entities

1. The purpose of this memorandum is to document my decision, as District Commander of the U.S. Army Corps of Engineers Los Angeles District, to continue accepting and expending funds contributed by a non-Federal public entity, specifically the Port of Los Angeles, under a new 3-year agreement, to expedite evaluation of permit applications under consideration of our Regulatory Division pursuant to Section 214 of the Water Resources Development Act of 2000 (WRDA 2000 Public Law 106-541 as amended by Public Laws 108-137, 109-99, 109-209, and 109-434).

2. The Los Angeles District published a Public Notice on 23 December 2002, which announced the Los Angeles District's preliminary intent to accept funds from the Port of Los Angeles pursuant to Section 214 of WRDA 2000. The public notice contained the actual text of Section 214, described conventional funding, defined non-Federal public entities, and presented information on the following subjects:

- a. How the Los Angeles District would expend the funds.
- b. The kind of activities for which funds would be expended.
- c. The procedures we will use to ensure that the funds will not impact impartial decision-making.
- d. The benefits non-Federal public agencies would receive from their funds.
- e. Impacts we foresee to our regulatory program and to Department of the Army permit evaluations that are not subsidized by funds contributed by non-Federal public entities.

3. On 6 January 2005, my predecessor, Colonel Alex Dornstauder, signed a Memorandum of Decision documenting the Los Angeles District's basis for accepting and expending funds from the Port of Los Angeles pursuant to Section 214 of WRDA 2000. On 13 January 2005, the Los Angeles District posted a Special Public Notice of our intent to accept and expend such funds. We executed a 1-year agreement with the Port of Los Angeles on the terms of such fund acceptance and expenditure on 02 November 2006. This agreement is due to expire on 02 November 2007.

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4. Because of the success of the 1-year agreement, we intend to enter into a 3-year agreement with the Port of Los Angeles to continue accepting and expending funds pursuant to Section 214 of WRDA. As stated in our responses to comments provided in the 06 January 2005 Memorandum of Decision (hereby incorporated into this Memorandum of Decision by reference), adequate safeguards are in place for accounting, reviewing, reporting, and publicizing actions performed with these funds. Under the 1-year agreement, we have submitted quarterly reports to the Port of Los Angeles itemizing the funds expended and ongoing and completed activities by project, anticipated expenditures and activities by project in the next quarter, and opportunities for improved efficiency and coordination. The two permit decisions to date, posted on our Regulatory Division's WRDA Funding webpage, have been approved by the Regulatory Division's North Coast Branch Chief, who is one level higher than the Senior Project Manager assigned to evaluate these Port of Los Angeles applications. We have noted improved responsiveness, while maintaining product integrity, by having staff available to answer questions and to evaluate these applications, on both small projects and on large projects involving more rigorous NEPA review. With the significant growth anticipated in the Port of Los Angeles and the benefits gained by having the 1-year agreement, we intend to enter into a 3-year agreement with the Port of Los Angeles to continue accepting and expending such funds.

  
THOMAS H. MAGNESS  
COL, EN  
Commanding