



**US Army Corps
of Engineers®**

SPECIAL PUBLIC NOTICE

DECISION TO ACCEPT
ADDITIONAL FUNDS FROM THE
PORT OF LOS ANGELES

LOS ANGELES DISTRICT

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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 Los Angeles Harbor Department/Port of Los Angeles (Port) under a new 3-year Memorandum of Agreement (MOA) between the Corps and the City of Los Angeles. This new MOA replaces the expiring MOA between the Corps and the City of Los Angeles that addressed the acceptance and expenditure of funds pursuant to Water Resources Development Act section 214 during the past 3 years. 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 3-year MOA, the large number of DA permit applications that continue to be submitted by the Port, 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 Port 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 R. Mark Toy, 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. The Memorandum documenting his decision is attached. This Memorandum references previous similar memoranda signed by Colonel Alex C. Dornstauber (6 January 2005) and Colonel Thomas Magness (11 October 2007), the past two Los Angeles District Commanders, which supported acceptance and expenditure of such funds under the original 1-year and the expiring 3-year MOA, respectively. Per the memoranda, on 23 December 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. 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 3-year agreement, we have submitted quarterly reports to the Port itemizing the funds expended and ongoing and completed activities by project, anticipated activities by project and estimated expenditures in the next quarter, and opportunities for improved efficiency and coordination. The final permit decisions to date, posted on our Regulatory Division's web page, have been reviewed and/or signed by the Regulatory Division's North Coast Branch Chief, who is one level higher than the Senior Project Manager assigned to evaluate these Port applications, the Division Chief, or the District Commander. 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. Continuation of the funding program will better serve the public interest through more cost-effective processing of permit applications, enhanced evaluation capability, and a stream-lined permit processing system. Our capacity to evaluate permit applications from applicants not party to this funding agreement will not be adversely affected.

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>.