



# *Informational Public Notice*

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**Public Notice Name:** *DECISION TO ACCEPT FUNDS CONTRIBUTED BY PORT OF BELLINGHAM*

**Public Notice Date:** 3 October 2014

**Expiration Date:** 3 November 2014

**US Army Corps of Engineers**  
**Seattle District**  
Planning Branch  
Post Office Box 3755  
Seattle, Washington  
98124-3799

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## **Public Notice Purpose**

This Public Notice informs the general public that the District Commander of the Seattle District, U.S. Army Corps of Engineers (Seattle District) has decided to accept and expend funds contributed by the Port of Bellingham. The District Commander determined that acceptance and expenditure of these funds is appropriate for an expedited review of the engineering designs and analyses pertaining to the modifications of Whatcom Waterway Federal Navigation Channel. The modifications are relevant to the Port of Bellingham's Model Toxic Control Act (MTCA) Clean Up Project and will be evaluated and reviewed in accordance with 33 U.S.C. 408 (Section 408) to ensure the authorized function and operations of the Whatcom Waterway Federal Navigation Channel is not impaired and continues to serve the public interest.

The Seattle District is authorized to accept and expend non-Federal funds pursuant to Section 214 of the Water Resources Development Act of 2000 (Section 214), Public Law No. 106-541 as amended, following public notice, to expedite the evaluation of a permit pursuant to Section 408 which was submitted by a non-Federal public entity, is related to a project or activity that is serving a public purpose, and is under the jurisdiction of the Department of the Army.

An initial public notice was circulated on 17 June through 17 July 2014, announcing the Seattle District's preliminary intent to accept and expend funds contributed by the Port of Bellingham. The public notice discussed the activities for which funds would be expended, detailed procedures to be used to ensure impartial decision-making, and solicited comments from the general public. No comments were received on the initial public notice.

The Seattle District will enter into a Memorandum of Agreement (MOA) with the Port of Bellingham to accept and expend contributed funds pursuant to Section 214.

## **The Kind of Activities for Which Funds Would be Expended**

Funds contributed by the Port of Bellingham hereunder will mainly be expended on the direct labor and overhead of Seattle District Civil Works technical team performing an

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expedited evaluation of the engineering plans and reports prepared by the Port of Bellingham. Such activities will include, but not be limited to, the following: technical analyses and writing, Agency Technical Review, real estate evaluation, risk analysis, copying or other clerical support tasks, acquisition of GIS data, site visits, travel, coordination activities, additional personnel (including support/clerical staff), technical contracting services, and environmental documentation preparation and review. Funds will also be expended for administrative tasks associated with maintaining and tracking the work completed under WRDA Section 214.

## **How Acceptance of Funds Will Expedite Review Process**

WRDA Section 214 is designed to enable the Seattle District to expedite the processing of public projects. The Port of Bellingham can expect the Section 408 review and evaluation of proposed modifications to receive expedited handling, through providing additional resources and creating a streamlined and more predictable time-line for obtaining an approval decision.

## **The Procedures To Ensure Impartial Decision-Making**

To ensure impartial decision making of the review and analysis conducted pursuant to Section 408 for the Port of Bellingham's MTCA Clean Up of the Whatcom Waterway Federal Navigation Project, the following procedures, mandated from Headquarters, U.S. Army Corps of Engineers, will apply:

- A. The District must assure the decision maker that the acceptance and expenditure of funds will not affect the District's and/or Division's evaluation of the Section 408 designs and analyses for the MTCA Clean Up Project of Whatcom Waterway Federal Navigation Channel.
- B. Funds will only be expended to expedite the review and approval of the modifications imposed on Whatcom Waterway Federal Navigation Channel by the MTCA Clean Up Project. If contracts are used to develop decision documents, such decision documents must be drafts only and be reviewed and adopted by Seattle District before the decision is made.
- C. Funds would *not* be expended for review of work by any final decision makers. Draft technical documents or draft decision documents resulting from the use of Section 214 funds must be reviewed and signed by an unfunded reviewer (i.e. a reviewer not funded by funds received under Section 214) prior to consideration by the District Commander.
- D. All final decisions regarding this project, where these funds are used, will be made available on the Seattle District web page.
- E. The Seattle District will not eliminate any procedures or decisions that would otherwise be required for the type of project and permit application under consideration.



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F. The Seattle District shall comply with all applicable laws and regulations.

## **Potential Impacts Not Subsidized by Port of Bellingham Funds**

The Seattle District does not expect this method of expediting the review of the modifications incurred upon Whatcom Waterway Federal Navigation Channel by the MTCA Clean Up Project to negatively impact the Seattle District's Civil Works Program, or to increase the time of evaluations of other projects.

## **Point of Contacts**

The Seattle District point of contact for this public notice is Ms. Keely Brown – Section 408 Program Manager and can be reached at (206) 764-3434 or by e-mail at [keely.n.brown@usace.army.mil](mailto:keely.n.brown@usace.army.mil).