



US Army Corps  
of Engineers

# Special Public Notice

**Regulatory Branch**  
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**Public Notice Date: September 14, 2007**  
**Expiration Date: October 13, 2007**

**Name: WRDA 2000**

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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. On December 20, 2006, Section 214 of WRDA 2000 was amended to extend funding authority until December 31, 2008 (Public Law No. 109-434).

Section 214 of WRDA 2000 as amended (WRDA Section 214) reads as follows:

(a) IN GENERAL.-The Secretary of the Army (Secretary), 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) EFFECT ON PERMITTING.-In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decisionmaking with respect to permits, either substantively or procedurally.

(c) DURATION OF AUTHORITY.-The authority provided under this section shall be in effect from October 1, 2000, through December 31, 2008.

The Secretary of the Army has delegated this responsibility to the Chief of Engineers and his authorized representatives, including the Commander of the Seattle District, U.S. Army Corps of Engineers, Seattle District (Seattle District). This Public Notice announces the preliminary intent of the Seattle District to accept and expend funds contributed by the Pierce County to expedite processing of their Department of the Army (DA) permit applications, subject to a series of limitations. This Public Notice solicits comments from the general public on the subject of acceptance and expenditure of funds contributed by Pierce County to expedite the evaluation of DA permit applications.

The following subjects will be discussed in this Public Notice:

- How the Seattle District would expend the funds,
- The kind of activities for which funds would be expended,
- The procedures we will use to ensure that the funds will not impact impartial decisionmaking,
- The benefits non-Federal public entities would receive from their funds,
- Impacts we foresee to our regulatory program and to DA permit evaluations that are not subsidized by funds contributed by non-Federal public entities.

The U.S. Army Corps of Engineers (Corps) 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 to augment the Seattle District

regulatory budget in accordance with the provisions of WRDA Section 214. The Seattle District would establish separate accounts for each funding non-Federal public entity to track receipt and expenditure of the funds. Seattle District regulatory employees would charge their time against the respective account of a non-Federal public entity when they did work to expedite resolution of one of that entity's permit requests.

Funds would primarily be expended on the salaries and overhead of Regulatory Project Managers performing expedited processing activities for participating public entities. Such activities would include, but not be limited to, the following: application intake review, drawings correction, jurisdictional determinations, site visits, technical support, training, public notice preparation, preparation of correspondence, conduct of the public interest review, preparation of draft permit decision documents, and meetings with the applicant. Funds will also be expended for administration tasks associated with maintaining and tracking the work completed under WRDA Section 214. Funds would *not* be expended for review of project managers' work by supervisors or any other final decision makers. No enforcement or compliance activities would be paid for from the augmenting funds, nor would the funds be used for paying the costs of public hearings and distribution of public notices.

Funds may also be expended to hire contractors to perform select duties such as site visits, technical writing, copying, technical contracting for review of specific items such as biological assessments for endangered species, writing drafts of reference biological assessments to be used by funding entities and the general public alike, preparing regional general permits, Essential Fish Habitat determinations, and other technical documents, including draft environmental documents. In addition, funds may be expended by other Corps offices that provide technical assistance in support of expedited evaluation.

If a participating entity's funds are expended and are not renewed, their remaining permit applications 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.

To ensure that the funds will not impact impartial decisionmaking, the following procedures, mandated from Corps Headquarters, 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 the decisionmaker, unless the decisionmaker is the District Commander. For example, if the decisionmaker is the Chief, Regulatory Branch, then the reviewer would be the Chief, Operations Division.
- b. All final permit decisions for cases where these funds are used will be made available on the Seattle District Regulatory web page.
- c. The Seattle District will not eliminate any procedures or decisions that would otherwise be required for that type of project and permit application under consideration.
- d. The Seattle 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 U.S. Army Corps of Engineers regulatory program employees, before the decision is made.

WRDA Section 214 is designed to enable the Seattle District regulatory program to expedite the processing of public projects. Participating agencies can expect some of their permit applications to receive expedited handling, and to the degree we consider it appropriate, they can set priorities. The result for participants should be streamlined permit processing, new tools to resolve Endangered Species Act (ESA) issues, and a more predictable time-line for obtaining DA authorizations.

We do not expect this method of expediting the permit review of certain public projects to negatively impact the Seattle District's regulatory program, or to increase the waiting time for permit evaluations that are not subsidized by funds contributed by non-Federal sponsors. 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 participants. Since the implementation of the previous agreements with non-Federal entities under WRDA Section 214, the Seattle District regulatory program has added additional staff and the average processing times for all applications has decreased.

This public notice has a 30-day comment period. Following the review of comments we receive in response to the public notice, the Seattle District Commander will determine if acceptance and expenditure of the funds is in compliance with WRDA Section 214. 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 Seattle District will proceed to accept and expend such funds from Pierce County. 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 Pierce County increases the amount of funds previously furnished, the WRDA Section 214 authority is extended to a later date or indefinitely, or a new agreement is signed, provided that the purpose remains the same.

Comments on implementing WRDA Section 214 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, Attn: Regulatory Branch, not later than the expiration date of this public notice to ensure review.

The Seattle District point of contact for this public notice is Ms. Jessica Winkler, who can be reached at (206) 764-5528 or by e-mail at [jessica.g.winkler@usace.army.mil](mailto:jessica.g.winkler@usace.army.mil).