



US Army Corps
of Engineers
Alaska District

Special Public Notice

ANCHORAGE OFFICE
Regulatory Division (1145)
CEPOA-RD
Post Office Box 6898
JBER, Alaska 99506-0898

ISSUANCE DATE:	July 21, 2021
REFERENCE NUMBER:	POA-2020-00546
EXPIRATION DATE:	August 17, 2021

PROPOSAL TO ACCEPT AND EXPEND FUNDS FROM THE PORT OF ALASKA TO
EXPEDITE PERMIT REVIEW
POA-2020-00546

This Special Public Notice announces the preliminary intent of the U.S. Army Corps of Engineers, Alaska District (Corps) to accept and expend funds provided by the Port of Alaska to expedite processing of their Department of the Army (DA) permit applications.

Section 214 of the Water Resources Development Act of 2000 (WRDA 2000, Public Law No. 106- 541), as amended, authorizes the Secretary of the Army, after public notice, to accept and expend funds contributed by a non-Federal public entity, public-utility company, natural gas company, or railroad carrier to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose under the jurisdiction of the Department of the Army. The authority to accept and expend funds under Section 214 has been delegated from the Secretary of the Army to District and Division Commanders, including the Commander of the Alaska District, U.S. Army Corps of Engineers. The authority to accept and expend funds from non-Federal public entities was made permanent by the passage of the Water Resources Reform and Development Act (WRRDA) of 2014 (Public Law No. 113-121) on June 10, 2014.

Definition of non-Federal public entities: Non-Federal public entities include state and local governmental agencies or government public authorities, as well as federally-recognized Indian Tribes. Examples of non-Federal public entities include, but are not limited to, local transportation agencies, port authorities, and flood and storm water management agencies. One or more non-Federal public entities may enter into a Section 214 funding agreement with the Corps.

How the Corps would expend the funds: The Corps' Regulatory Program is funded as a congressionally appropriated line item in the annual Federal budget. Funds received from the Port of Alaska under the Section 214 agreement would be added to the Regulatory budget of the Alaska District, in accordance with the provisions of section 214 of WRDA 2000, as

amended. The Alaska District, Regulatory Division, would establish a separate account to track receipt and expenditure of the funds. Alaska District employees would charge their time against such account when working on Port of Alaska permit applications deemed a priority and specified in the agreement.

Activities for which funds will be expended: Funds would be expended primarily on the labor and overhead of Alaska District personnel processing priority permit applications designated by the Port of Alaska. Such permit application 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, coordination concerning endangered species and cultural resources, public interest review, 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 to perform select duties, such as site visits, technical writing or review of specific technical or legal documents, such as biological assessments for endangered species, cultural resources surveys, and Essential Fish Habitat determinations. No non-compliance resolution or enforcement activities would be paid from monies received from the Port of Alaska.

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) The Corps will ensure that the evaluation of permits carried out using funds accepted from the Port of Alaska are reviewed at least one level above the decision maker, unless the decision maker is the District Commander, then the Commander of the Corps Division in which the District is located, would review the permit decision. For example, if the decision maker is the Chief of the Regulatory Division, then the reviewer would be the District Commander.
- (b) The Corps will ensure that all final permit decisions carried out using accepted funds from the Port of Alaska are made available to the public, including on the Internet at: <https://www.poa.usace.army.mil/Missions/Regulatory/>
- (c) The Corps will utilize the same procedures for decisions that would otherwise be required for the evaluation of permits for similar type projects or activities not carried out using funds accepted from the Port of Alaska.
- (d) The Corps will comply with all applicable laws and regulations.
- (e) The Corps will only expend funds accepted from the Port of Alaska to provide priority review of permit applications, and will not use them to carry out a review of the evaluation of permits, as required under (a) above.

Impacts to the Regulatory Program: We do not expect priority review of Port of Alaska projects to negatively impact Alaska District's Regulatory Program or to increase the time for permit application evaluations of other projects.

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 administrative action. If the Alaska District Commander determines, after considering public comments, that the acceptance and expenditure of the funds is in compliance with the Water Resources Development Act and is not otherwise contrary to the general public interest, then Alaska District, Regulatory Division, will implement section 214 of WRDA 2000, as amended, through a signed memorandum of agreement and accept the funds from the Port of Alaska. 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 Port of Alaska increases the amount of funds previously furnished, provided that the proposed terms of acceptance and expenditure of funds remain the same.

Submission of Comments: Interested parties may submit, in writing, any comments concerning this proposal. **Comments should refer to POA-2020-00546 and be forwarded by the comment due date of August 7, 2021. Comments submitted via postal service shall have a post mark no later than August 7, 2021.** Comments must be sent to the U.S. Army Corps of Engineers, Alaska District, Regulatory Division, ATTN: Heather Markway, P.O. Box 6898, JBER, Alaska 99506, or comments can be sent electronically to regpagemaster@usace.army.mil.

Any questions or requests for additional information should be directed to regpagemaster@usace.army.mil, (907) 753-2712, toll-free from within Alaska at (800) 478-2712.

District Commander
U.S. Army, Corps of Engineers