

Amendment No. 1

AGREEMENT
AMONG
THE PORTS OF PORTLAND AND VANCOUVER, USA
AND
THE DEPARTMENT OF THE ARMY

WHEREAS, the Department of the Army (hereinafter the "Army"), represented by the U.S. Army Corps of Engineers (hereinafter the "Corps"), Portland District Engineer, and the Ports of Portland and Vancouver, USA (hereinafter collectively the "Ports"), represented by their respective Executive Directors, entered into an agreement on November 15, 2006 for the Ports to provide and the Corps to accept and expend funds to expedite the evaluation of permits subject to certain limitations;

WHEREAS, Public Law 109-434 was signed into law on December 20, 2006 extending the sunset clause for Section 214 of the WRDA 2000 to December 31, 2008;

WHEREAS, Public Law 110-114 was signed into law on November 8, 2007 extending the sunset clause for Section 214 of the WRDA 2000 to December 31, 2009;

WHEREAS, the Chief of Engineers by memorandum dated May 21, 2008, entitled *Collection of Civil Works Appropriation Reimbursements*, provided USACE policy for the collection of civil works appropriation reimbursements;

WHEREAS, the Chief of Engineers by memorandum dated October 1, 2008, entitled *Implementation Guidance for Section 2002 of the Water Resources Act of 2007*, authorized District and Division Engineers to accept and expend funds contributed by non-federal entities to expedite the evaluation of permits subject to the limitations described in the implementation guidance, including District Engineers approval of said agreements and additional standards the District must comply with to insure impartial decision making; and

WHEREAS, the parties desire to amend the agreement to incorporate the new above-referenced guidance from the Chief of Engineers.

NOW, THEREFORE, the parties hereto amend the agreement dated November 15, 2006 with the following particulars and no others:

1. Article II – Scope, Section A, the first sentence is amended and restated in its entirety to read as follows:

The Ports shall provide funds to the Portland District, in an amount to be agreed upon by each Port and the Portland District, on a quarterly basis and in advance of each quarter for each full time position.

2. Article II – Scope, Section A, the following sentence is added to the end of the paragraph:

Any funds advanced to the Portland District by the Ports in excess of the actual costs incurred that quarter shall apply toward the following quarter's Corps-estimated expenses.

3. Article III – Impartial Decision Making is amended and restated in its entirety to read as follows:

It is understood and agreed that in order to ensure that the acceptance and expenditure of funds will not impact impartial decision making with respect to permit review and final permit decision, either substantively or procedurally, the District will comply with the following standards, as mandated by Headquarters, U.S. Army Corps of Engineers:

A. In cases where funds are used, all final permit decisions, including all reporting nationwide, general, and regional permit verifications, must be reviewed and signed by at least one level above the decision maker, unless the decision maker is the District Commander. For example, if the decision maker is the Chief, Regulatory Branch, then the reviewer would be the Chief, Operations Division. Team Leaders are appropriate one level-above-reviewers provided signature authority has been delegated to the project manager level. In accordance with all national policy and guidance, Districts are encouraged to delegate signature authority to the lowest appropriate level.

B. All documents involved in the decision making process (e.g., decision document and permit instrument, if applicable) must be reviewed and signed by the one-level-above reviewer as defined above.

C. All jurisdictional determinations made on projects where funds are used must have documentation that a non-funded, Regulator reviewed and agreed with the determination (e.g., peer review). This review does not need to be a field review.

D. All final permit decisions, including all reporting nationwide, general, and regional permit verifications, for cases where these funds are used will be made available and updated monthly on the District's web page in an area separate from any other final actions, clearly identifiable as being for projects funded by and through this authority.

E. Any procedures or decisions that would otherwise be required for a specific type of project or permit under consideration cannot be eliminated; however, process improvements that are developed can be shared in order for all members of the regulated public to benefit.

F. The Corps must comply with all applicable laws and regulations.

G. 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 Corps before the permit decision is made.

H. Funds will not be used for enforcement activities. Funding may be used for compliance activities including monitoring of mitigation sites.

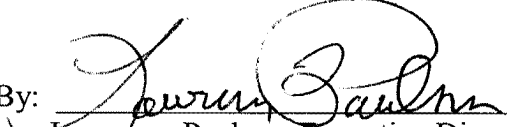
4. Article VII – Amendment, Modification, and Termination, Section B is amended and restated in its entirety to read as follows:

The agreement shall remain in force until the earlier of: (1) December 31, 2009, unless the sunset clause in Section 214 of the WRDA 2000 is extended by Congress; (2) the agreement is terminated pursuant to this Article; or (3) the funds have been expended and not replenished following notice to the Ports.

5. Agreement Terms in Effect. Except as specifically amended by this Amendment, all other terms and obligations set forth in the Agreement shall remain in full force and effect.

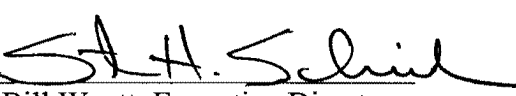
This amendment shall become effective when signed by the Ports and the Corps.

PORT OF VANCOUVER, USA

By: 
Lawrence Paulson, Executive Director

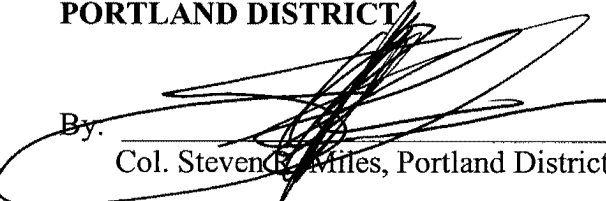
Date: November 13, 2008

THE PORT OF PORTLAND

By: 
for Bill Wyatt, Executive Director

Date: 4 Nov 2008

**U.S. ARMY CORPS OF ENGINEERS,
PORTLAND DISTRICT**

By: 
Col. Steven B. Miles, Portland District Engineer

Date: 14 Nov 08.