



**US Army Corps
of Engineers**
Portland District

SPECIAL PUBLIC NOTICE

PROPOSAL TO ACCEPT FUNDS FROM
CLATSOP DIKING IMPROVEMENT DISTRICT

Issue Date: February 23, 2015
Expiration Date: March 23, 2015

Corps Reference: PM-F-DD9-2015
30-Day Notice

This Public Notice announces the preliminary intent of the Corps, Portland District, to accept funds from Clatsop Diking Improvement Company #9 on behalf of Oregon Liquefied Natural Gas. Portland District would allocate funds internally to expedite the Department of the Army processing of Oregon LNG's proposed request to modify federally constructed flood risk reduction projects, to perform horizontal directional drilling, auger boring, or over-crossing operations across such projects, and to review potential effects to the Columbia River Federal Navigation Channel of HDD and dredging to create a ship turning basin, in accordance with Section 408, subject to a series of limitations specified below.

Oregon LNG is proposing to site, construct and operate a liquefied natural gas terminal in Warrenton, Oregon. The project includes a bidirectional LNG terminal with vaporization and liquefaction facilities, a pier with a ship berth for an LNG carrier, a turning basin in the Columbia River, and an 86.8-mile-long, 36-inch-diameter bidirectional pipeline from the terminal through Clatsop, Tillamook, and Columbia Counties in Oregon and Cowlitz County in Washington. As currently proposed, the project would require authorization from the U.S. Army Corps of Engineers pursuant to 33 USC 408 (Section 408). Section 408 provides authority to the Secretary of the Army to grant permission for the alteration or modification of Corps federal civil works projects when in the judgment of the Secretary such alteration or modification will not be injurious to the public interest and will not impair the usefulness of the project.

Portland District would allocate funds internally and to other supporting Corps district to expedite the Department of the Army processing of a proposed request to modify a federal flood protection system (levee) and federally authorized navigation channel in accordance with Section 408, subject to a series of limitations specified below.

The Corps may accept and expend these funds pursuant to Section 214 of the Water Resources Development Act of 2000 (WRDA 2000, Public Law No. 106-541) as amended, which provides that the Secretary of the Army, after public notice, may accept and expend funds contributed by a nonfederal public entity 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. In doing so, the Secretary must ensure that the use of such funds will not impact impartial decision making with respect to permits, either substantively or procedurally. Section 1006 of Water Resources Reform and Development Act, enacted after being signed by the President on June 10, 2014, eliminated the sunset date from the Section 214 authority for non-Federal public entities.

The Secretary of the Army has delegated this responsibility to the Chief of Engineers and his authorized representatives, including district commanders of the U.S. Army Corps of Engineers. Authorized representatives of the Portland District Commander will be negotiating an agreement with Clatsop Diking Improvement Company #9 to accept and expend funds to expedite review and evaluation of a Section 408 request for alterations to Corps federally authorized civil works projects.

Definition of non-federal public entities: Non-federal public entities are defined for Section 214 purposes as state and local governmental agencies and Indian tribal governments. Clatsop Diking Improvement Company #9 meets this definition. Clatsop Diking Improvement Company #9 is an Oregon Corporation for Irrigation, Drainage, Water Supply or Flood Control organized and existing under ORS chapter 554 and the successor in interest to the Clatsop Drainage District.

How the Portland District's acceptance of funds from Clatsop Diking Improvement Company #9 is expected to expedite the processing of Oregon LNG's 408 request to modify a federal project.

The Corps' Operation and Maintenance funds for the Inspection of Completed Works program and the project condition survey program are funded through the Corps' Civil Works program in the annual federal budget. Funding within these two programs is insufficient to completely fund the technical and policy reviews required for the approval of the proposed project. The Portland District would receive additional funds from Clatsop Diking Improvement Company #9 and would add those funds to the Operation and Maintenance budgets of the Portland District, dedicated to review of the Oregon LNG 408 request, in accordance with the provisions of Section 214 of WRDA 2000.

Activities for which funds will be expended: Funds would be expended on the direct labor and overhead of Corps' civil works personnel evaluating the engineering plans, specifications and reports prepared by engineering consultants to the Oregon LNG project. Such review and processing activities would include, but not be limited to, the following: technical analyses and writing, 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, environmental documentation preparation and review. Funds will not be used for drafting, negotiating, or issuing any necessary real estate instruments.

Funds provided by Clatsop Diking Improvement Company #9 that remain unexpended at the Corps acceptance of the completed modification will be returned by the Corps to Clatsop Diking Improvement Company #9. If at any time during the review process, Oregon LNG wishes to withdraw their Section 408 request, the Corps will return unexpended funds to Clatsop Diking Improvement Company #9.

Procedures to be used to ensure impartial decision-making: Approval of the Oregon LNG Section 408 permit applications has been determined to be at the Director of Civil Works level. To ensure the funds will not impact impartial decision-making, the following procedures would apply:

- a. No funds received under a Section 214 agreement shall be expended for the District Commander or the Division Commander's consideration and recommendation to the Director of Civil Works regarding the Oregon LNG project Section 408 request to modify a Corps federal project.
- b. Draft technical documents, draft decision and recommendation documents resulting from the use of funds obtained from Clatsop Diking Improvement Company #9 under Section

214 will be reviewed and signed by a reviewer who is not funded by funds received under Section 214 for the Oregon LNG project Section 408 application.

- c. All final permit decisions for cases where Section 214 funds are used will be made available on the Portland District website.
- d. The Corps will not eliminate any procedures or decisions that would otherwise be required for that type of project and permit application request under consideration.
- e. The Corps will comply with all applicable laws and regulations.
- f. Section 214 funds will only be expended to provide priority review of the participating non-federal entity's permit request to modify a federally constructed project and if approved by the Director of Civil Works, Section 214 funds will also be expended to monitor the construction activities in order to render Corps acceptance of the modifications.

Impacts to the Civil Works Program: The Corps does not expect priority review of the Oregon LNG project to negatively impact the District's Civil Works Programs, or to increase the time for evaluations of other projects.

Consideration of Comments: The Corps is soliciting comments specific to this proposal to accept funds under Section 214 of WRDA 2000 from the public, federal, state and local agencies and officials, and other interested parties. Comments will be part of the record, and considered in determining whether it would be in the public interest to proceed with this action. If the Portland District Commander determines, after considering public comments, that the acceptance and expenditure of the funds is in compliance with Section 214 of WRDA 2000 and is not otherwise contrary to the general public interest, the Portland District will implement Section 214 of WRDA 2000 through a signed Memorandum of Agreement and accept the funds from Clatsop Diking Improvement Company #9. A second informational public notice will be issued regarding the final decision on this matter.

Provided that the purpose for accepting funds remains the same as that described in this notice, a new public notice is not required in the event that the MOA is amended to extend the term of the agreement; to modify the list of priority projects identified in the MOA; or to adjust the terms of the annual advance payment contemplated under the MOA.

Comments: Interested parties may submit, in writing, any comments directed specifically to this proposal to accept funds under Section 214 of WRDA 2000, and not to other regulatory processes administered by the Corps or other government agencies pertaining to the Oregon LNG Project. Comments should refer to Proposed Acceptance of Funds from Clatsop Diking Improvement Company #9 for Oregon LNG Project (PM-F-DD9-2015) and the date of this Public Notice and be postmarked by the comment due date. Comments must be sent to:

U.S. Army Corps of Engineers, Portland District
ATTN: Marci E. Johnson
P.O. Box 2946
Portland, OR 97204-3495

Alternatively, email comments to: marci.e.johnson@usace.army.mil (MUST USE as the Subject: Public Notice PM-F-DD9-2015).

For more information, call Marci Johnson at 503-808-4765. This public notice is issued by the U.S. Army Corps of Engineers, Portland District.