



SPECIAL PUBLIC NOTICE

U. S. ARMY CORPS OF ENGINEERS
New Orleans District
7400 Leake Ave.
New Orleans, Louisiana 70118-3651

BUILDING STRONG®

NOTICE OF DECISION TO ACCEPT FUNDS FROM THE ENERGY, L.L.C. FOR EXPEDITING SECTION 10/404 PERMIT APPLICATIONS

Informational Public Notice Issue Date: 6 December, 2021

This Special Public Notice announces that the United States Army Corps of Engineers (“USACE”), New Orleans District (“CEMVN”), District Commander has decided to accept and expend funds contributed by Entergy, Inc. (“Entergy”) pursuant to a Memorandum of Agreement (“MOA”) between CEMVN and Entergy, in accordance with Section 214 of the Water Resources Development Act of 2000, (“Section 214”), as amended by Section 1006 of the Water Resources Reform and Development Act of 2014. The purpose of the MOA is to establish the framework for the acceptance and expenditure of funds to be provided by Entergy to expedite the CEMVN evaluation and processing of Department of Army applications submitted by Entergy to CEMVN pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) (hereinafter “Section 404”), and Section 10 of the Rivers and Harbors Appropriation Act of 1899, as amended (33 U.S.C. 403) (“Section 10”) collectively referred to as “Section 10/404” herein, for proposed Entergy projects and activities that serve a public purpose and that are under the jurisdiction of the Department of the Army.

CEMVN issued an initial Special Public Notice on February 1, 2021 advising the public of its proposed intent to accept and expend funds contributed by Entergy for the expedited review and processing of Section 10/404 permit applications. Following the expiration of the public comment period and the review of the comments received in response to the Special Public Notice, the CEMVN District Commander determined that the acceptance and expenditure of funds to be received from Entergy for the expedited evaluation and processing of Section 10/404 permit applications, is appropriate and in compliance with Section 214 and all other applicable USACE guidance, laws and regulations, and that the acceptance and expenditure of the funds will not adversely affect the permit evaluation, review and processing timeframes for the general public who have not provided Section 214 funding. The decision of the CEMVN District Commander, including all public comments received from the February 1, 2021 Special Public Notice, has been documented in a Memorandum for Record (“MFR”) which has been executed by the

CEMVN District Commander and has been published on the CEMVN web page at <http://www.mvn.usace.army.mil/Missions/214Agreements.aspx> and forwarded to HQUSACE Regulatory Section 214 Manager. HQUSACE will maintain a copy of the MOA during its active term on the HQUSACE website where a copy of the executed active MOA, together with other related documents, such as decision documents and annual reports will also be posted. The decision to enter into an MOA to accept funds does not constitute any endorsement or implied consent to Section 10/404 requests by Entergy; rather, it enables CEMVN staff to devote the attention required to the Section 10/404 permit applications, in a more timely and more thorough manner than they may otherwise be able to.

The February 1, 2021 Special Public Notice addressed (among other things) the types of activities for which the contributed funds would be expended, how the expenditures will expedite the review process, and the procedures to be used by CEMVN to ensure impartial decision-making. These procedures are included in the MOA and are summarized as follows:

- CEMVN shall establish separate accounts in the USACE Financial Management System to track the acceptance and expenditure of funds pursuant to the MOA in accordance with the USACE current fiscal year budget execution guidance.
- CEMVN personnel accomplishing the technical and administrative tasks required to expedite the evaluation of the Section 10/404 permit applications covered by the MOA, shall charge their time against the specific applicable account when working on those requests.
- Funds provided by Entergy will be expended on direct labor, salaries, and overhead for CEMVN personnel performing expedited Section 10/404 permit processing activities for the proposed Entergy projects and activities.
- Funds will only be expended to expedite the review and approval of the Section 10/404 permit applications. Funds will not be expended for review of the decision-maker's decision.
- The CEMVN Section 10/404 review shall utilize the same procedures for decisions that would otherwise be required for the evaluation of permits for similar projects or activities not carried out using funds authorized under Section 214.
- CEMVN shall not eliminate any procedures or decisions that would otherwise be required for the types of projects and Section 10/404 permit applications under consideration, and shall comply with all applicable laws, regulations, policies, and guidance.
- All final Section 10/404 decisions and decision documents, shall be reviewed and approved in writing by a responsible official, at least one level above the decision maker. The decision maker is the person that has been delegated signature authority. The one-level-above review must be a position that is not partially or fully funded by the same funding entity.

- The parties shall comply with all requirements of applicable federal and state laws, and USACE regulations, policies, and guidance.

USACE Districts nationwide have experienced improved permit evaluation and processing under Section 214 MOAs, while simultaneously being able to maintain impartial decision-making, integrity, and rigorous NEPA review and environmental compliance. Implementation of the MOA will better serve the public interest through a more cost-effective processing of Section 10/404 permit applications, enhanced evaluation capability, and streamlined processing. CEMVN's capacity to evaluate permit applications, and applications from applicants that are not a party to the MOA or that have not provided Section 214 funding will not be adversely affected.

For additional information, please contact: Mr. Brandon Gaspard at (504) 862-1280 or by e-mail to Brandon.D.Gaspard@usace.army.mil.

Sincerely,

MARTIN S. MAYER
Chief, Regulatory Division