bring it into compliance before submitting its Agricultural Water Management Plan in December 2012, the agricultural water supplier shall provide in its 2012 plan, a schedule, budget and finance plan for taking corrective action in three years or less.

NOTE: Authority cited: Section 10608.48, Water Code. Reference: Sections 531.10, 10608.48(i)(1) and 10826, Water Code.

HISTORY

1. New section filed 7–11–2012; operative 7–11–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 28).

Chapter 6. Encroachments

Article 1. General Provisions

§ 600. Authority.

These regulations are promulgated by the Department of Water Resources pursuant to Water Code Section 12899.9.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.9, Water Code.

HISTORY

1. New chapter 6 (articles 1–10, sections 600–635.0), article 1 (sections 600–600.4) and section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17). For prior history of sections 600–649.6, see Register 79, No. 4.

§ 600.1. Purpose and Scope.

(a) The purpose of these regulations is to interpret, implement and comply with the provisions of Water Code Sections 12899 through 12899.11, inclusive. These Sections authorize the Department to establish, administer, maintain and enforce a formal permit program for encroachments on the State Water Resources Development System right–of–way; to control and regulate existing and future encroachments, to prevent, remove and abate unauthorized encroachments, activities or use of the Department's right–of–way, and to protect its integrity from damage or injury, while respecting the rights of others. The encroachment permit serves as the primary means for monitoring the orderly and controlled construction, operations and maintenance of encroachments, use and activities within the Department's right–of–way, and assuring the maximum protection of the State Water Resources Development System.

(b) The area of the Department's jurisdiction is the State Water Resources Development System right–of–way, property, property interests, works, facilities and any parts thereof.

(c) These regulations do not apply to the Sacramento and San Joaquin Drainage District or any areas under the jurisdiction of the Central Valley Flood Protection Board, except as they may also be covered by subdivision (b).

(d) These regulations do not apply to any activities of the United States or its agencies if the activities are conducted pursuant to, and consistent with, an agreement with Reclamation for the operation and maintenance of facilities jointly owned by the State and the United States.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899–12899.11, 12931 and 12934(d), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 600.2. Intent.

(a) The Department built, operates, manages and maintains the State Water Resources Development System and continues to repair, rehabilitate, enlarge and improve it to meet the continually expanding and increasing needs of California residents, businesses, farms and other users. To carry out this critical public infrastructure function, it is vital for the Department to protect the State Water Resources Development System from encroachments, activities and uses that may threaten its integrity, interfere with its operation and maintenance or obstruct, hinder or delay the repair, rehabilitation, relocation, installation, enlargement or improvement of its facilities.

This chapter intends to establish regulations, policies and procedures to protect the State's water supply and conveyance system and ultimately secure the health and safety of the public.

The Department intends to control encroachments, while respecting the rights of others, by establishing a formal encroachment permit program. The Department recognizes that certain unauthorized uses, encroachments or activities exist within its right–of–way that are incompatible with the purposes for which these rights were acquired and may need to be removed or abated. These regulations establish an enforcement process to control, prevent, abate or remove such unauthorized activities, uses and encroachments that threaten the integrity of the system or interfere with the Department's ability to protect its critical infrastructure.

(b) Nothing in this chapter is intended to grant, alter, expand, or limit any title or interest in any department property interest.

(c) Encroachment permits issued pursuant to these regulations shall not grant any title or interest in department property, or create any agency or independent contractor relationship between the Department and any person.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899–12899.11, 12931 and 12934(d), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 600.3. Definitions.

(a) "Abatement" means action as may be necessary to remove, terminate, or alleviate an unauthorized encroachment, including but not limited to demolition, removal, or restoration of property.

(b) "Applicant" means person or entity who has applied for an Encroachment Permit from the Department.

(c) "ASTM" means American Society for Testing and Materials, a globally recognized leader in the development and delivery of international voluntary consensus standards.

(d) "Business Days" means those days when the Department offices are open to the public for business transactions. Weekends, along with State and federal holidays, are not business days. "Days" in these regulations mean calendar days unless, referred to as "business days."

(e) "CEQA" means the California Environmental Quality Act, Division 13 of the Public Resources Code, Sections 21000 through 21174, inclusive.

(f) "Department" means the Department of Water Resources of The Natural Resources Agency of the State of California as provided in Water Code Section 120.

(g) "Electrolier" means wooden, concrete or steel pole supporting lamps or other lights, such as street lamps or traffic signals.

(h) "Embankment" means the raised compacted–earth structures that retain water and support operating roads at the crest.

(i) "Emergency" means any lawfully declared emergency or any circumstance determined to be an emergency by the Department which is a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

(j) "Encroachment" means installation of any tower, pole, pipe, fence, building, structure, object, or improvement of any kind or character that is placed in, on, under, or over any portion of the State Water Project or other use of the Department's right–of–way, including the alteration of the ground surface elevation by more than one foot, or the planting of trees, vines, or other vegetation on the Department's right–of–way that may pose a threat to the physical integrity of any facility of the State Water Project or that could interfere with the Department's rights with regard to access, inspection, repair or the operation and maintenance of any State Water Project facility.

(k) "Encroachment Permit" means the Department's written authorization for an alteration, improvement, encroachment, excavation, use or activity within the Department's right–of–way that is not inconsistent with the function, operation, maintenance, enlargement, and rehabilitation of any portion of the facilities of the State Water Project. An 'En-

croachment Permit' is revocable and non–transferable and can only be modified or transferred with the written approval of the Department.

(*l*) "FERC" means the Federal Energy Regulatory Commission which issues licenses for power generation.

(m) "Joint–Use Facilities" means those facilities of the State Water Project which are jointly owned, operated, and maintained by the State and the United States Bureau of Reclamation.

(n) "Member" as it relates to bridge construction means an individual angle, beam, plate, or built piece intended to become an integral part of an assembly frame or structure.

(o) "Milepost" means the distance designated along the State Water Project in miles identifying each project feature such as aqueduct pool, control structure, plant, reservoir outlet, and manhole starting from the beginning of the system.

(p) "Permittee" means any person or entity who has obtained an Encroachment Permit from the Department.

(q) "Person" means any person, firm, partnership, association, corporation, other business entity, nonprofit organization, or governmental entity.

(r) "Potable" means water that meets the drinking water standards as defined in Sections 116270 through 116293, inclusive, of the California Health and Safety Code.

(s) "Reclamation" means the United States Bureau of Reclamation, Department of the Interior as described in the "Agreement between the United States of America and the Department of Water Resources of the State of California for the Construction and Operation of the Joint–Use Facilities of the San Luis Unit" (REV December 30, 1961), hereby incorporated by reference.

(t) "Right–of–Way" means any property interest acquired by the Department for State Water Project purposes, including but not limited to, an easement, license, permit, agreement, or fee ownership.

(u) "Safety Plan" means the implementation of an Injury and Illness Prevention Program in accordance with Section 1509 Title 8, Article 3, Subchapter 4, of California Code of Regulations.

(v) "State Water Contractor" means a public agency that has a long–term water supply contract with the Department of Water Resources for the delivery of water pursuant to subdivision (b) of Section 12937 of the Water Code.

(w) "State Water Resources Development System" hereinafter referred to as the State Water Project or SWP, means the State Water Resources Development System as described in Section 12931 and Section 12934(d) of the Water Code, including, but not limited to, all portions of the project authorized pursuant to the Central Valley Project Act (Part 3 commencing with Section 11100).

(x) "Unauthorized Encroachment" means any alteration, improvement, encroachment, excavation, use or activity within the State Water Project right–of–way acquired for the State Water Project without an encroachment permit or agreement from the Department authorizing such encroachment, use or activity.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 120, 12931, 12934(d), 11100, 12899, 12899.1(a), 12899.1(c), 12899.5(b), 12899.5(e), 12899.8(e), 12899.10 and 12899.11(a), Water Code; and Sections 21000–21174, Public Resources Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 600.4. Delegations.

The Department may delegate any of its power and duties under Sections 12899 to 12899.11 of the Water Code, excluding approval authority, to any state agency, mutual water company, political subdivision, or other entity or organization with a contract with the Department. The Department may withdraw or revoke this delegation at any time.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 11625 and 12899.4, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

Article 2. Encroachment Permit General Provisions

§ 601. General Prohibition of Unauthorized Encroachments by Public.

Except as provided by Section 12899.8 of the Water Code, no person shall make any alteration, improvement, encroachment, or excavation within the right–of–way acquired for the State Water Project, without first obtaining the written permission of the Department.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(a) and 12899.8, Water Code.

HISTORY

1. New article 2 (sections 601–606) and section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17). For prior history of section, see Register 79, No. 4.

§ 602. Requirement of the Public to Submit an Encroachment Permit Application.

Any person proposing an encroachment or any person who, as of the effective date of these regulations, has a non–permitted encroachment within the right–of–way acquired for the State Water Project shall submit an application as found in Article 5, Section 610.1 of these regulations. This requirement shall not apply to any person that is exempt from permitting under Article 3, section 607.1 of these regulations or possesses an encroachment permit for authorized encroachments as provided under Article 3, section 607.1 of these regulations.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.1(b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17). For prior history, see Register 79, No. 4.

§ 603. Department's Authority to Issue an Encroachment Permit.

The Department may issue a written encroachment permit for any activity that is not inconsistent with the functioning, operation, maintenance, enlargement, and rehabilitation of any portion of the facilities of the State Water Project.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.1(c), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17). For prior history, see Register 79, No. 4.

§ 603.5. Department's Authority to Deny an Encroachment Permit Application.

The Department may deny an application if the Department determines that the proposed use may pose a threat to the physical integrity of the State Water Project or could interfere with the Department's rights with regard to access, inspection, repair, or the operation and maintenance of any State Water Project facility. If the Department denies an application for an encroachment permit, it shall provide an explanation in writing for the denial to the applicant.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.1(b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17). For prior history, see Register 79, No. 4.

§ 604. Department is not Responsible for Construction of Encroachment.

By issuing a permit the Department is not responsible for the quality, reliability, or feasibility of the permitted activity.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.1(d), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17). For prior history, see Register 79, No. 4.

§ 605. Activities Requiring Encroachment Permits.

The following activities require an Encroachment Permit:

(a) The installation of any tower, pole, pipe, fence, building, structure, object, or improvement of any kind or character that is placed in, on, under, or over any portion of the State Water Project or other use of the Department's right–of–way, including the alteration of the ground surface elevation by more than one foot, or the planting of trees, vines, or other vegetation on the Department's right–of–way that may pose a threat to the physical integrity of any facility of the State Water Project or that could interfere with the Department's rights with regard to access, inspection, repair or the operation and maintenance of any State Water Project facility.

(b) Proposed modifications to the existing soil or other cover over State Water Project pipelines.

(c) Temporary or permanent placement of excavated materials within the Department's right–of–way.

(d) Storage and placement of construction equipment and materials within the Department's right–of–way

(e) Causing or allowing water to be drained, from the person's lands onto the State Water Project's right–of–way by any means, which results in damage to the State Water Project system or right–of–way, or interferes with the ability of the Department to conduct operations and maintenance activities in the right–of–way, except where the water naturally drains onto the Department's right–of–way.

(f) Obstruct any natural watercourse in a manner that does any of the following:

(1) Prevents, impedes, or restricts the natural flow of waters onto any portion of the Department's right–of–way into and through the watercourse or State Water Project cross drainage structures, unless the Department determines that the change to the natural watercourse will not result in damage to any portion of the State Water Project or the Department's right–of–way.

(2) Causes waters to be impounded within the Department's right–of–way that damages the State Water Project or the Department's right–of–way, except where the water naturally drains onto the Department's right–of–way.

(3) Damages Department's right–of–way, or impedes or makes hazardous the operation, maintenance, and rehabilitation of the State Water Project right–of–way or facilities.

(g) Stores or distributes water in a manner that causes the water to flow onto, obstructs or damages any portion of the State Water Project or the Department's right–of–way.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899(b) and 12899.6, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17). For prior history, see Register 79, No. 4.

§ 606. Encroachment Permits Within FERC Boundaries.

In addition to all requirements of these regulations, all applicants requesting encroachment permits within Department right–of–way that fall within FERC license boundaries shall submit written confirmation of compliance with all FERC requirements.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(b) and 12899.1(e), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17). For prior history, see Register 79, No. 4.

Article 3. Encroachment Permit Exemption

§ 607.1. Persons Exempt from Permitting.

Any person owning a legal real property interest over a portion of the State Water Project right of–way for an authorized encroachment, or who has an agreement with the Department for the construction, operation, and maintenance of an authorized encroachment within the State Water Project right–of–way, is not required to obtain an encroachment permit from the Department for exercising their property or other rights. A person asserting an exemption under this section shall submit a copy of the agreement, or documentation of real property interest, to the Department. The Department will determine whether or not the documents support the assertion of an exemption and will respond to the applicant within 30 days of receipt of the documentation.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.8(a), Water Code.

HISTORY

1. New article 3 (sections 607.1–607.3) and section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 607.2. Other Exemptions.

A person who, pursuant to authority conferred by lease, contract, agreement, license or easement with the Department, obtains an interest in Department property, or performs an activity within the SWP right–of–way, or is authorized to use the SWP right–of–way, is not required to separately obtain an encroachment permit, but only with regard to the interest, activity, or use under that lease, contract, agreement, license, or easement.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.8(a) and 12899.8(b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 607.3. Plan Submission to Department for Persons Holding an Exemption.

A person holding an exemption, pursuant to Sections 607.1 and 607.2, shall submit their plans to the Department for review and comment before undertaking any work within the Department's right–of–way. The Department shall provide written comments within thirty (30) days after submittal of the plans. The holder of an exemption shall comply with any requirements contained in the Department's written comments.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.8(a), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

Article 4. Existing Encroachments

§ 608.1. Unauthorized Encroachments.

Upon discovery of an unauthorized use, activity or encroachment, as described in these regulations, an officer, employee or authorized representative of the Department may require the owner to remove the encroachment or abate the activity pursuant to Water Code Section 12899.5 and Article 9 of these regulations.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.5(c)–(g), Water Code.

HISTORY

1. New article 4 (sections 608.1–608.3) and section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 608.2. Authorized Encroachments.

A person who possesses an encroachment permit for authorized encroachments within the State Water Project right–of–way issued by the Department executed as of January 1, 2007, or a person who has an agreement with the Department, executed as of, or after, January 1, 2007, for the construction, operation, and maintenance of an authorized encroachment, may continue the use of the authorized encroachment permit pursuant to the terms, conditions, and limitations of the existing encroachment permit or agreement.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.2(b) and 12899.8(b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 608.3. Department Consent Required for Sale or Transfer of Encroachment Permit Interest. Duty to Notify Department.

Permittee shall provide written notice to the Department in the event of a sale or transfer of the Permittee's interest in property that is the subject of an Encroachment Permit. The right or interest included in an Encroachment Permit shall not pass by sale, transfer, assignment, or succes-

sion without written consent by the Department. Failure to notify the Department of the transfer will terminate the right or interest conferred by the Encroachment Permit, at which time the Department may take action to remove the encroachment as authorized by law and set forth in these Regulations.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.2(b), 12899.2(c) and 12899.5(b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

Article 5. Encroachment Permit Process

§ 610.1. General Application Requirements.

(a) Every application for a permit authorizing an encroachment within the Department's right–of–way shall be submitted on Department's DWR 33, (REV 1/15) "Encroachment Permit Application", hereby incorporated by reference. The form can be downloaded at the Department's website at www.water.ca.gov. All applications shall either be typed or filled out legibly in ink. All applications shall be signed by the person(s) responsible for compliance with the encroachment permit terms, conditions, and financial liabilities.

(b) Construction and Work Plan Requirements

(1) The application shall be accompanied by a minimum of two (2) hard–copy sets and one (1) electronic (PDF format) set of calculations, specifications, and detailed construction and work plans showing plan views, profiles, and sections of proposed work within the Department's right–of–way. Hard–copy plan sets must be 24x36 inch.

(2) Every plan submitted, or resubmitted, for department review and approval shall contain the original California registered professional engineer's stamp and signature.

(3) Plans shall show an accurate and easily recognizable boundary of the Department's right–of–way and a North Arrow. The Department's right–of–way shall be clearly labeled with arrows pointing to the boundaries, and shall include a scale and legend.

(4) Applicant's plans shall clearly show the physical location of all proposed work, construction and associated activities within the Department's right–of–way.

(5) All State Water Project facilities, including, but not limited to, pipelines, appurtenances, canals, operating roads, fences, communication and control cables, drainage structures, shall be shown on the construction plans throughout the area of proposed construction and work.

(6) The following note shall be placed on each construction plan sheet where work will be performed within the Department's right–of–way:

"A SEVEN (7) DAY ADVANCE NOTIFICATION IS REQUIRED PRIOR TO STARTING WORK WITHIN THE DEPARTMENT OF WATER RESOURCES RIGHT–OF–WAY. CONTACT THE DEPARTMENT OF WATER RESOURCES, DIVISION OF ENGINEERING, ENCROACHMENT PERMIT SECTION, SACRAMENTO, CALIFORNIA AT (800) 600–4397. THE APPROPRIATE DEPARTMENT FIELD DIVISION SHALL BE SIMULTANEOUSLY NOTIFIED BY THE PERMIT HOLDER.

MEASURES SHALL BE TAKEN BY THE CONTRACTOR TO PROTECT IN PLACE ALL SWP FACILITIES AND APPURTENANCES, INCLUDING BUT NOT LIMITED TO COMMUNICATION AND CONTROL CABLES AND CATHODIC PROTECTION TEST STATIONS. THE PERMITTEE AND CONTRACTOR WILL BE LIABLE FOR ALL DAMAGES TO SWP FACILITIES AND APPURTENANCES AS A RESULT OF THE CONSTRUCTION, AND FOR ANY OTHER DAMAGES OR LOSSES SUFFERED BY DEPARTMENT OR ITS WATER CONTRACTORS, INCLUDING POWER, IRRIGATION, MUNICIPAL AND INDUSTRIAL WATER SUPPLY, AND COMMUNICATION LOSSES."

(7) If trench excavation is a part of the proposed encroachment, the following note shall be placed on each construction plan sheet where work will be performed within the Department's right–of–way:

"ALL TRENCH EXCAVATION SHALL COMPLY WITH THE MOST CURRENT OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION STANDARDS. TRENCH BACKFILL SHALL BE PLACED IN NO GREATER THAN 4–INCH LIFTS IF HAND COMPACTED OR NO GREATER THAN 8–INCH LIFTS IF POWER COMPACTED. TRENCH BACKFILL WITHIN DEPARTMENT OF WATER RESOURCES RIGHT–OF–WAY SHALL BE COMPACTED TO 95 PERCENT RELATIVE COMPACTION (ASTM D1557–12)."

ASTM D1557–12 "Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort" (REV 5/1/2012), hereby incorporated by reference.

(8) The following note shall be placed on each construction plan sheet that shows the Department's communication and control cables where work will be performed within the Department's right–of–way:

"COMMUNICATION AND CONTROL CABLES CONNECTED WITH THE OPERATION OF THE STATE WATER PROJECT ARE BURIED ALONG EITHER OR BOTH SIDES OF THE AQUEDUCT/PIPELINE WITHIN DEPARTMENT OF WATER RESOURCES RIGHT–OF–WAY, AS APPROXIMATELY DEPICTED ON THIS PLAN. PRIOR TO ANY EXCAVATION IN THIS AREA, THE CABLE(S) SHALL BE LOCATED AND EXPOSED BY POTHOLING IN THE PRESENCE OF A DEPARTMENT OF WATER RESOURCES FIELD DIVISION REPRESENTATIVE. CALL AT LEAST SEVEN (7) DAYS IN ADVANCE FOR AN APPOINTMENT. ALL EXCAVATIONS WITHIN THREE (3) FEET OF THE CABLE(S) SHALL BE DONE USING HAND–HELD TOOLS ONLY."

(9) The following note shall be placed on each construction plan sheet where trench excavation will be performed within the Department's right–of–way:

"ALL TRENCH EXCAVATION SHALL COMPLY WITH THE MOST CURRENT OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION STANDARDS. TRENCH BACKFILL SHALL BE PLACED IN NO GREATER THAN 4–INCH LIFTS IF HAND COMPACTED OR NO GREATER THAN 8–INCH LIFTS IF POWER COMPACTED. TRENCH BACKFILL WITHIN DEPARTMENT OF WATER RESOURCES RIGHT–OF–WAY SHALL BE COMPACTED TO 95 PERCENT RELATIVE COMPACTION (ASTM D1557–12)."

(10) Embankments shall not be permitted within the Department's right–of–way where the State Water Project underground pipeline exists, unless the Department determines that the embankment does not pose a hazard to the integrity of the pipeline or impedes pipeline maintenance.

(11) If an existing road embankment is to be widened, the construction of the new section shall be consistent with the original embankment.

(12) If existing drainage features are to be modified during construction, detailed construction plans showing the proposed drainage replacement/restoration shall be submitted for review and approval by the Department.

(c) Environmental Review

(1) Each application will be evaluated by the Department with respect to applicant's compliance with Federal, State and local environmental laws, including, but not limited to:

a) The California Environmental Quality Act, Public Resources Code section 21000 et seq. (CEQA) and the CEQA Guidelines, Title 14, California Code of Regulations, section 15000 et seq. The staff recommendations may include proposals for mitigation to avoid significant impacts to the environment.

b) The Public Resource Code 5024.

c) The National Environmental Policy Act, Title 42 of the United States Code section 4321 et seq.

(2) The permittee shall provide written confirmation of compliance with all Federal, State, and local environmental requirements. Throughout construction activities, the permittee shall fulfill all identified environmental issues/requirements.

(3) If the Department is the Lead Agency under CEQA and is required to prepare an environmental document for an encroachment pursuant to CEQA, all Departmental costs associated with the preparation of an environmental impact report (EIR), initial study, or negative declaration, shall be reimbursed by the applicant before a permit will be issued.

(4) The permittee shall provide access to the area of the proposed work to the Department for environmental, engineering or other purposes related to the Department's review of the application.

(d) Construction Equipment

1. Type and weight of the construction equipment and the crossing location(s) over SWP pipeline shall be submitted for review and approval by the Department.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(b), 12899.1(c), 12899.2(b), 12899.2(d), 12899.2(c) and 12899.2(f), Water Code.

HISTORY

1. New article 5 (sections 610.1–610.11) and section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 610.2. Temporary Entry or Access.

(a) Temporary access may be permitted by the Department's field division office having jurisdiction over the location of the proposed encroachment for the purpose of visual inspections, aerial and ground surveys, or potholing to locate certain utilities within the Department's right–of–way; the temporary access shall not extend beyond thirty (30) working days from the date of issuance.

(b) Construction activities shall not be permitted under a grant of temporary entry or access.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c) and 12899.2(b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 610.3. General Provisions of an Encroachment Permit.

(a) The Department may prescribe requirements in the encroachment permit, including a requirement that the permittee pay the entire cost and expense of restoring the affected State Water Project facilities to a condition equivalent to that before the work was performed, and requirements relating to the location and manner in which the work shall be performed for the protection of the Department's facilities.

(b) The Department may require mitigation for effects of the approved activity on the environment, separate and apart from any other requirements under State or Federal environmental laws.

(c) The Department may require a reporting and monitoring program for any mitigation required by the Department to avoid significant impacts on the environment.

(d) All of the work performed under an encroachment permit shall be in accordance with the plans, and specifications reviewed and approved by the Department.

(e) The Department may require the owner of an encroachment, or the owner of the real property upon which the encroachment is located, to execute and cause to be recorded a document which imposes a covenant, restriction, servitude or combination thereof, which runs with the land and binds all owners, heirs, successors, lessees, agents, and assigns, and would be enforceable by the Department or its successor. The Department may also require the applicant to post a performance and payment bond payable to the Department. These requirements may be imposed where the Department has a reasonable belief that: (1) a particular applicant may fail to comply with the terms or conditions of an encroachment permit, such as where there may have been previous encroachment permit violations by the applicant, or (2) where record notice to successors–in–interest to the applicant or landowner is deemed appropriate.

(f) The encroachment permit issued under these regulations shall not eliminate the need, as required by law, of securing the written order or consent from all other Federal, State, or local public agencies having jurisdiction over the applicant's project area. An applicant shall demonstrate compliance with all requirements of all public agencies with jurisdiction over the applicant's project area.

(g) The Permittee shall prevent contamination of the water in the aqueduct or SWP right–of–way during construction.

(h) Each permittee shall exercise reasonable care to operate and maintain any work authorized by an encroachment permit to prevent injury or damage to the Department's right–of–way or facilities, or interfere with the successful execution, functioning, or operation of any present or future planned State Water Project facilities. The permittee shall repair and restore the affected State Water Project facilities or the Department's right–of–way to a condition equivalent to that before the work was performed for any injury or damage which occurred as a result of work performed under the encroachment permit, including any and all injury to the Department's facilities which would not have occurred had such work not been done or such encroachment had not been placed therein.

(i) The permittee shall be responsible for all personal liability and property damage which may arise out of a permittee's actions or failure to perform the obligations/conditions of the encroachment permit. The permittee shall agree to save and hold the Department free and harmless from, and to defend and indemnify the Department against, any and all claims and liability, including, but not limited to, personal injury or property damage arising or claimed to arise, directly or indirectly, from the uses of land pursuant to the permit. The permittee shall agree to release the State from responsibility or liability for any damages that may be caused to the encroachment by the use and operation of the State Water Project right–of–way and the Department's facilities.

(j) The encroachment permit may be revoked by the Department if the work described in the encroachment permit is not commenced within one (1) year of the permit's issuance. The permittee shall request an extension from the Department no less than sixty (60) days prior to the expiration date stated on the encroachment permit if the permitted work will not be completed by the encroachment permit's expiration date.

(k) The permittee's signature on the encroachment permit constitutes acceptance of, and agreement with, all the terms and conditions of the encroachment permit.

(*l*) Any work within the Department's right–of–way shall conform to the terms and conditions of the encroachment permit. If the work does not conform, the Department may issue an order that the permittee remove, alter, relocate, or reconstruct any or all of the work, at the sole cost and expense of the permittee. Should a permittee fail to comply with the Department's order, the Department may perform such work or have the work performed, and the permittee shall reimburse the Department for all costs and expenses of the work performed, including administrative costs and attorney fees.

(m) The permittee shall bear the full cost and expense of removal of its facilities upon the abandonment, termination, modification or revocation of the permit. The permittee shall also be responsible for, or pay the full expense of, restoring the Department's facilities and right–of–way equivalent to the condition immediately prior to the commencement of the permitted work.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.2(b), 12899.2(c) and 12899.7, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 610.4. Encroachment Permit Revisions, Modifications, Revocations.

(a) Any plan previously approved by the Department may be changed or altered by the permittee only with the prior written consent and approval of the Department. A written request for a plan revision shall be submitted to the Department for review and approval in advance of performance of any revision and/or deviation of the approved plan of work. All modifications or changes must be reflected on the final as–built plans.

(b) Minor changes may be made in plans without the submission of a written request for a plan revision only if approved in advance by the De-

partment's on–site inspector and a record of that approval is maintained by permittee and submitted to the Department.

(c) Department may revoke an encroachment permit if any changes or modifications are made to an authorized encroachment or SWP facility without the approval of the Department.

(d) The Department may revoke the encroachment permit or change any condition in the encroachment permit if the existing encroachment prevents the future repair, rehabilitation, or improvement of the State Water Project facilities. Relocation or removal of the encroachment will be at the sole expense of the permittee.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.2(a) and 12899.8(b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 610.5. Removal or Relocation of Encroachments.

Any encroachment permit issued to a permittee shall include a provision that requires the permittee to relocate or remove the encroachment in the event the future repair, rehabilitation, or improvement of the State Water Project requires the relocation or removal of the encroachment at the sole expense of the permittee.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.2(c), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 610.6. Encroachment Permit Fees and Costs.

(a) Prior to the Department issuing an encroachment permit, the applicant shall pay the Department for all application processing fees, review costs, and the estimated construction supervision and inspection costs.

(b) The Department shall charge an initial application fee to process and review an encroachment permit to use the Department's right–of–way. The initial application fee will be credited towards the total cost incurred by the Department to administer, review, and issue an encroachment permit, and inspect construction activities within Department's right–of–way. Department processing and review costs that exceed the initial application fee will be billed to the applicant with periodic invoicing reflecting the application processing and review costs as of the date of the invoice. The Department will suspend processing of an encroachment permit if these invoices are not paid.

(c) If the actual inspection costs exceed the estimated costs, any additional costs shall be paid by the applicant. If the actual costs are less than the estimated costs, the Department shall refund to the permittee the difference. A refund shall only be paid upon receipt of the as–built plans, which allows the Department to close out the encroachment permit process.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.2(d), 12899.2(e) and 12899.5(d), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 610.7. Proof of Insurance.

Before granting an encroachment permit, the Department may require any applicant to provide proof of insurance naming the Department as an additional insured in the amount necessary to protect the Department's interest, but not less than one million dollars per occurrence.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.2(f), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 610.8. Bonds.

(a) Before granting an encroachment permit, the Department may require any applicant, other than a county, city, city and county, or public agency that is authorized by law to establish and maintain any works or facilities within the Department's right–of–way, to file with the Department a performance and/or payment bond payable in an amount the Department estimates will cover the cost of removal, relocation, reconstruction or maintenance of the encroachment, which will protect the Department in the event the permittee does not comply with the terms and condition of the permit.

(b) The Department may require a performance and/or payment bond from a county, city, city and county, or public agency that, prior to submitting an application, failed to comply with these regulations or with the conditions of a previous permit.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c) and 12899.2(g), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 610.9. Pre–Construction Requirements.

(a) Permittee shall notify the Department at least seven (7) calendar days prior to starting work within the Department's right–of–way as prescribed in the fully executed encroachment permit.

(b) A construction schedule outlining the anticipated duration of the construction shall be submitted to the Department for review and approval at least seven (7) calendar days prior to start of construction.

(c) Prior to construction, the condition of the Department's roads, fences, and Department land areas adjacent to the proposed project area shall be jointly inspected and documented by the permittee and Department personnel. Upon completion of the proposed construction activities, the condition of these features shall be jointly re–inspected. The permittee shall be liable for all costs associated with restoring these features to pre–construction conditions.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c), 12899.2(b), 12899.2(e) and 12899.7, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 610.10. Construction Requirements.

(a) All work within the Department's right–of–way shall be completed within one calendar year from initiation of construction, or as otherwise specified by the Department on the encroachment permit.

(b) The Department's ongoing operations and maintenance activities shall not be disrupted during construction. Permittee shall maintain Department's access through the worksite at all times.

(c) The Department may inspect and supervise the work performed under any encroachment permit issued pursuant to these regulations before, during and after construction, and at regular intervals. A copy of the approved encroachment permit and the plans bearing the DWR stamp and dated signature shall be kept at the site of the work at all times. The Department's inspector may halt construction on any project if the work does not conform to the encroachment permit terms and conditions.

(d) If work is not completed by the expiration date on the encroachment permit, and permittee has not requested an extension, then the project will be deemed to have been abandoned and the encroachment shall be deemed by the Department to be unauthorized.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c), 12899.2(b), 12899.2(e) and 12899.7, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 610.11. Post–Construction Requirements.

(a) Within sixty (60) days after the completion of the encroachment, the permittee shall submit as–built plans to the Department. As–built plans must be stamped, signed, and dated by a California registered professional engineer. The Department's inspectors shall verify the accuracy of the as–built plans and that all as–built plan sheets have been submitted and are accurate. If the Permittee does not submit the as–built plans, the Department may hold the refund, if any, as described in section 610.6(c).

(b) Permittee shall be responsible for the operation and maintenance of all features of their project. Permittee may enter the Department's right–of–way for routine operations and maintenance purposes without advance notification to the Department. In cases of emergency, permittee may enter the right–of–way without advance notice but shall notify the Department's field division with jurisdiction for the encroachment within 24 hours of entry for all activities beyond the scope of routine mainte-

nance. Activities requiring alteration of Permittee's facilities or construction within the right–of–way shall not proceed without written approval from the Department.

(c) For purposes of this section, "routine operations and maintenance" means inspection, equipment testing and maintenance, water quality monitoring, weed and pest abatement, landscaping and other similar activities that are consistent with existing agreements or contracts with the Department.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c), 12899.2(b) and 12899.2(e), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

Article 6. Requirements for Specific Types of Encroachments

§ 612.1. Bridge Encroachments.

The following general standards are the minimum requirements for 'Bridge Encroachments'. These standards shall be met in addition to any requirements for an encroachment permit as set forth in these regulations. Each application shall be evaluated on an individual basis by the Department to ensure the safety and integrity of the State Water Project facilities and right–of–way, and the safety of the public.

(a) New bridge crossings shall be perpendicular to the centerline of the aqueduct and only at locations reviewed and approved by the Department. Exceptions to the policy will only be considered if the applicant demonstrates that the crossing as proposed will not affect the Department's ability to operate, maintain or modify the State Water Project Aqueduct.

(b) New bridge crossings shall be of a 'Free Span' design, meaning no bridge supports shall be allowed in the aqueduct or its lining. The minimum vertical clearance between the bottom of the girders and the top of the canal lining shall be three (3) feet. For box girder bridges, the vertical clearance shall be five (5) feet. The minimum horizontal clearance from the face of the abutment to the top of the canal lining shall be five (5) feet. Exceptions to these clearances will only be considered if the applicant demonstrates that the proposed clearance will not affect the Department's ability to operate, maintain or modify the State Water Project Aqueduct.

(c) Driving sheet piles shall not be permitted. The piles shall be cast–in–place.

(d) All submitted construction plans for the bridge encroachment shall contain the following information:

(1) Superstructures, abutments, railings, embankments, and drainage, including details and sections.

(2) Type of concrete used for different members.

(3) Details of cast–in–place piles, if any, on both sides of the aqueduct.

(4) The elevation of the bottom of the girders and the clearance between the top of the canal lining to the girders.

(e) The right turn radius from the new road onto the Department's operating road shall accommodate turning radius for a 80–foot long vehicle.

(f) Details of any existing or proposed utilities attached to the bridge shall be shown or referenced on the construction plan.

(g) Specific requirements for attaching utilities to bridges are as follows:

(1) Anchor bolt locations shall not intercept the critical reinforcing steel of the bridge.

(2) Utilities shall be placed and anchored under bridge decks between girders and through utility openings, if they are present. The utility shall be placed off center in the utility opening, if possible, to allow for future utility additions.

(3) If an expansion joint is used in the pipeline, it shall be placed near the bridge deck expansion joint.

(4) Core drilling through bridge concrete or abutment and retaining walls for passage of utilities will only be allowed in areas designated by the Department. Core drilling through reinforcement bars shall not be permitted. The annular space between the utility and core–hole surface shall be completely filled with an elastomeric sealant to prevent loss of material or water piping from behind the wing walls and abutments.

(5) No drilling, shooting, grinding, or chipping of any kind shall be permitted on pre–stressed concrete girders.

(6) The total weight of all added utilities shall not exceed ten (10) percent of the weight of adjacent supporting girders and the slab.

(7) Casings shall extend a minimum of ten (10) feet beyond each end of the bridge.

(8) Lateral supports for the utility shall withstand a seismic loading of no less than 0.5g (include pipe material and content inside the pipe in the engineering calculation). Spacing supports shall not exceed a maximum of twelve (12) feet.

(9) All support hardware shall be galvanized steel.

(10) The casings or utilities shall be coated with a Department approved protective coating and maintained as directed by the Department.

(11) Utilities shall not be placed on the bridge deck.

(12) Anchor bolts shall be hot–dipped galvanized double wedge conforming to Federal Specification FF–S–325 Amendment No. 3, Group II, Type 4, Class 1 (REV 8/9/1995), hereby incorporated by reference; and shall be installed according to the manufacturer's instructions, or equivalent.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c), 12899.2(b) and 12899.7, Water Code.

HISTORY

1. New article 6 (sections 612.1–612.67) and section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.2. Landscaping Encroachments.

The following general standards are the minimum requirements for 'Landscaping Encroachments'. These standards shall be met in addition to any requirements for an encroachment permit as set forth in these regulations. Each application shall be evaluated on an individual basis to ensure the safety and integrity of the State Water Project facilities and right–of–way, and the safety of the public.

(a) Landscaping encroachments shall not be permitted within the Department's right–of–way where open aqueduct exists.

(b) Landscaping encroachments within the Department's right–of–way, where the State Water Project underground pipeline exists, shall be subject to the following requirements:

(1) The full width of the right–of–way may be used as green belt upon the Department's review and approval.

(2) Ground cover and shrubs are permitted only with the Department's review and approval.

(3) Trees and vines may be permitted if they are at least twenty–five (25) feet from the edge of buried pipeline, measured from the tree dripline at maturity. Exceptions will only be considered by the Department if the planting of trees within this 25–foot limit will not adversely affect the integrity of the State Water Project buried pipeline or facilities.

(4) A plant legend showing common plant names shall be included on the submitted landscape plans.

(5) Only plants conforming to the standards set forth in this regulation and that are shown on the reviewed and approved landscape plans shall be allowed. Substitutions or additions of plants not shown on the approved landscape plans shall not be permitted and shall be removed at the permittee's cost and expense.

(c) Landscape and irrigation plans shall show an easily recognizable boundary and designation of the Department's right–of–way. All State Water Project facilities shall be shown and labeled.

(d) Pressurized irrigation lines less than or equal to one (1) inch in diameter which run parallel to a State Water Project pipeline shall be installed at least fifteen (15) feet from the closest edge of the State Water Project pipeline. Irrigation lines greater than one (1) inch in diameter shall run perpendicular to the SWP pipeline.

(e) Major valves greater than one (1) inch in diameter shall be installed outside the Department's right–of–way or within ten (10) feet from the closest edge of the State Water Project right–of–way.

(f) Detectable warning tape shall be over all buried pressurized irrigation line(s) and shall be a minimum of eighteen (18) inches above the waterlines the entire distance within the Department's right–of–way. Subsequent repair or maintenance of the irrigation lines shall require replacement of the warning tape.

Warning tapes shall conform to the following:

(1) For potable waterlines, the warning tape shall be a 3–inch–wide blue detectable tape imprinted with "CAUTION BURIED POTABLE WATERLINE."

(2) For non–potable waterlines, the warning tape shall be a 3–inch–wide purple detectable tape imprinted with "CAUTION BURIED NON–POTABLE WATERLINE."

(g) Proposed modifications to the existing cover over a State Water Project pipeline shall be subject to review and approval by the Department.

(h) Temporary or permanent placement of excavated materials within the Department's right–of–way shall be subject to review and approval by the Department.

(i) A grading plan showing the top of the Department's pipeline elevation shall be submitted for the Department's review and approval.

(j) Open space with natural hiking trails and walkways will be considered if the Department's access to the State Water Project pipeline and appurtenant facilities for inspection and maintenance is ensured.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c), 12899.2(b) and 12899.2(c), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.3. Longitudinal Encroachments.

The following general standards are the minimum requirements for 'Longitudinal Encroachments'. These standards shall be met in addition to any requirements for an encroachment permit as set forth in these regulations. Each application shall be evaluated on an individual basis to ensure the safety and integrity of the State Water Project facilities and right–of–way, and the safety of the public.

(a) Longitudinal encroachments that do not directly serve the Department or water agencies receiving water from the State Water Project shall not be permitted. Exceptions will only be considered if the applicant demonstrates that the encroachment as proposed will not affect the Department's ability to operate, maintain or modify the State Water Project Aqueduct.

(b) For those instances where longitudinal encroachments are permitted, the longitudinal encroachment shall not be more than ten (10) feet from the right–of–way boundary line, and on the downslope side where open aqueduct exists.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c) and 12899.2(b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.4. Road, Parking Area, and Recreational Trails Encroachments.

The following general standards are the minimum requirements for 'Road, Parking Area, and Recreational Trails Encroachments'. These standards shall be met in addition to any requirements for an encroachment permit as set forth in these regulations. Each application shall be evaluated on an individual basis to ensure the safety and integrity of the State Water Project facilities and right–of–way, and the safety of the public.

(a) A grading plan showing the top of the Department's pipeline elevation shall be submitted for the Department's review and approval.

(b) Proposed modifications to the existing cover over the State Water Project's pipelines shall be subject to review and approval by the Department to ensure the safety and integrity of the State Water Project buried pipelines.

(c) Temporary or permanent placement of excavated materials within the Department's right–of–way shall be subject to review and approval by the Department to confirm that the composition of fill or borrow material does not obstruct or damage any portion of the State Water Project or Department's right–of–way.

(d) If existing drainage features are to be modified during construction by the permittee, detailed design plans showing the proposed drainage replacement and/or restoration shall be submitted for review and approval by the Department.

(e) Where a roadway is aligned over buried State Water Project pipeline, Department's access points to the pipeline shall be located outside the travel lanes.

(f) All streets, roads, and parking surfaces are to be paved with asphalt or other flexible pavement.

(g) Depressed curbs or driveways shall be provided for the Department's vehicular access when new roads cross the State Water Project's aqueduct or pipeline.

(h) Trails and maintenance roads shall be fenced, except when the Department's right–of–way is used as a greenbelt. Within the Department's right–of–way the fence shall be approved by the Department and shall not obstruct access of Departmental personnel or equipment.

(i) Any gates allowed within the Department's right–of–way shall be at least sixteen (16) feet wide. Where the gates are to be locked the Department shall have access for ingress and egress at all times for the duration of the encroachment permit. The permittee shall provide the Department with a current key, or an updated combination or access code.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c) and 12899.2 (b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.5. Subdivision Encroachments.

The following are the minimum requirements for 'Subdivision Encroachments'. These shall be met in addition to any other requirements for an encroachment permit as set forth in these regulations. Each application will be evaluated on an individual basis to ensure the safety and integrity of the State Water Project's facilities and right–of–way, and the safety of the public.

(a) Permanent structures are not permitted within the Department's right–of–way.

(b) The permittee shall not divert surface run off toward the Department's open canal embankments. The surface run off shall be stored and collected outside the Department's right–of–way. Lined drainage channels shall be designed to transfer flow from the collection basins to the Department's existing cross drainage facilities and cross as close as practical to a ninety (90) degree crossing.

(c) Subdivision lots that incorporate Department right–of–way shall not affect the Department's ability to operate, maintain or modify the State Water Project.

(d) Open space with natural hiking trails and vegetation will be considered if the Department's access to the State Water Project's pipeline and facilities for inspection and maintenance is maintained.

(e) The Department may require setback provisions within the Department's right–of–way to be included in the encroachment permit.

(f) Any gates controlling access to the Department's right–of–way shall be at least sixteen (16) feet wide. Where the gates are to be locked the Department shall have access for ingress and egress at all times for the duration of the encroachment permit. The permittee shall immediately provide the Department with a current key, or an updated combination or access code at all times.

(g) Modifications to the existing cover over State Water Project pipelines shall not exceed the Department's design criteria for cover over the affected segment of the State Water Project pipeline.

(h) A grading plan showing the top of the Department's pipeline elevation shall be submitted for the Department's review and approval.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c) and 12899.2(b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.6. Utility Encroachments.

(a) The general standards in this section are the minimum requirements for Utility Encroachments. These standards shall be met in addition to any requirements for an encroachment permit as set forth in Sections 612.61 through 612.67, inclusively, of these regulations. Each application shall be evaluated on an individual basis to ensure the safety and integrity of the State Water Project's facilities and right–of–way, and the safety of the public.

(1) All utilities conveying any substance other than potable water shall be perpendicular to centerline of the State Water Project's pipeline to minimize the potential impact of contamination to State Water Project right–of–way. Exceptions will only be considered if the crossing will not increase the potential for contamination to State Water Project right–of–way.

(2) The points where the proposed utilities enter and exit the Department's right–of–way shall be plainly and permanently marked by sign posts extending five (5) feet above grade. Applicant shall provide sign posts directly above its utility centerline at all angle points within the Department's right–of–way. The distance between adjacent sign posts shall not exceed a maximum of five hundred (500) feet. Sign posts shall contain the name of owner/operator, contents of the pipeline, utility identification, and an emergency contact telephone number. Sign posts for angle points that lie in roads shall be offset and have a reference noted. The location of the sign posts shall be shown on the design plans.

(3) The location of the State Water Project's pipeline, conveyance or aqueduct, and communication and control cables shall be shown on the plans throughout the area of the proposed construction. Prior to the Department issuing an encroachment permit, the pipeline, if present, and the cable(s) shall be located and exposed by potholing. All work within three (3) feet of the pipeline and the cable(s) shall be done using hand–held tools only. The applicant shall contact:

a) The appropriate Underground Service Alert regional notification center.

b) The Department's telecommunication provider.

c) The Department for the location(s) of the pipeline and the communication and control cables.

(4) The presence of a Department inspector will be required throughout the potholing exposure process at the cost of the applicant. Applicant shall call the Field Division Office having jurisdiction over the location of the proposed encroachment for an appointment to perform the exposure of the pipeline and the cable(s).

(A) The resultant elevation information, including datum, shall be delineated on the profile view and labeled as

SWP T.O.P. POTHOLED ELEVATION XX.X
Surface Elevation XX.X
CABLE POTHOLED ELEVATION XX.X
Surface Elevation XX.X
[Where xx.x is the elevation in feet to the nearest tenth.]

(B) The following not shall be placed on each plan sheet where trench excavation will be performed within Department's right–of–way:

COMMUNICATION AND CONTROL CABLES CONNECTED WITH THE OPERATION OF THE STATE WATER PROJECT ARE BURIED ALONG EITHER OR BOTH SIDES OF THE AQUEDUCT/PIPELINE WITHIN DEPARTMENT OF WATER RESOURCES RIGHT–OF–WAY, AS APPROXIMATELY DEPICTED ON THIS PLAN. PRIOR TO ANY EXCAVATION IN THIS AREA, THE CABLE(S) SHALL BE LOCATED AND EXPOSED BY POTHOLING IN THE PRESENCE OF A DEPARTMENT OF WATER RESOURCES FIELD DIVISION REPRESENTATIVE. CALL AT LEAST SEVEN (7) DAYS IN ADVANCE FOR AN APPOINTMENT. ALL EXCAVATIONS WITHIN THREE (3) FEET OF THE CABLE(S) SHALL BE DONE USING HAND–HELD TOOLS ONLY.

(5) The pothole locations shall be shown on the plans. The pothole elevations shall be referenced to the State Water Project's stationing or Milepost.

(6) The following note shall be placed on each plan sheet where trench excavation will be performed within the Department's right–of–way:

ALL TRENCH EXCAVATION SHALL COMPLY WITH THE MOST CURRENT OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION STANDARDS. TRENCH BACKFILL SHALL BE PLACED IN NO GREATER THAN 4–INCH LIFTS IF HAND COMPACTED OR NO GREATER THAN 8–INCH LIFTS IF POWER COMPACTED. TRENCH BACKFILL WITHIN DEPARTMENT OF WATER RESOURCES RIGHT–OF–WAY SHALL BE COMPACTED TO 95 PERCENT RELATIVE COMPACTION (ASTM D1557–12).

(7) Plans shall contain the following information:

a) State Water Project Milepost at each crossing, pipeline size and location, and type of material transported.

b) Maximum operating pressure, type of pipe and joints, maximum test pressure and description of test procedures, wall thickness, and carrier pipe classification.

c) Type of sleeve/casing pipe including diameter, joints, and wall thickness.

d) Protective coatings and corrosion control measures.

e) Location of nearest shutoff valve on each side of the crossing.

f) Location and details of thrust blocks.

g) Code(s) used for design.

h) Location including depth of the State Water Project's pipeline, if present, and the communication and control cables.

i) Other existing utility easements or encroachments in the immediate vicinity.

(8) Detectable warning tape shall be required over all trenched utilities and shall be a minimum of eighteen (18) inches above the utility situated within the Department's right–of–way. Subsequent repair or maintenance of the utility shall require replacement of the detectable warning tape.

Warning tapes shall conform to the following guidelines:

a) For potable waterlines, the warning tape shall be a three (3)–inch–wide blue detectable tape imprinted with "CAUTION BURIED POTABLE WATERLINE."

b) For non–potable waterlines, the warning tape shall be a three (3)–inch–wide purple detectable tape imprinted with "CAUTION BURIED NON–POTABLE WATERLINE."

c) For sewer and storm drain lines, the warning tape shall be a three (3)–inch–wide green detectable tape imprinted with "CAUTION BURIED (type) LINE."

d) For gas, oil, and steam chemical lines, the warning tape shall be a three (3)–inch–wide yellow detectable tape imprinted with "CAUTION BURIED (type) LINE."

e) For telecommunications, telephone, and television conduit(s), the warning tape shall be a three (3)–inch–wide orange detectable tape imprinted with "CAUTION BURIED (type) CONDUIT."

f) For electrical, street lighting, and traffic signal conduit(s), the warning tape shall be a three (3)–inch–wide red detectable tape imprinted with "CAUTION BURIED (type) CONDUIT."

(9) Electrical conduits installed within the Department's right–of–way shall be overlaid with three (3) inches of red–dyed concrete, in addition to detectable warning tape as described in subsection 8(F) above.

(10) The utility owner/operator shall maintain the pipeline, casing seal, and identification signs in good condition as determined by the Department. Failure to repair problems after notification may lead to encroachment permit revocation.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899, 12899.1(a), 12899.1(c) and 12899.2, Water Code.

HISTORY
1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.61. Utility Crossing State Water Project Open Aqueduct.

(a) Utilities shall cross the aqueduct perpendicular to the centerline of the aqueduct. Exception to this section will only be considered if the crossing does not affect the Department's ability to operate, maintain or modify the aqueduct.

(b) Pier construction in the aqueduct for a new utility crossing(s) is not allowed. New utility crossings shall be 'Free Span' design or attached to existing structures.

(c) Clearance between encroaching utilities and the top of the existing or future aqueduct lining shall be a minimum of twelve (12) inches. If this minimum clearance is reduced by subsidence or by future departmental modifications to the canal lining, the required minimum clearance shall be re–established at the permittee's cost and expense.

(d) Boring and/or jacking of a utility through protective dikes or aqueduct embankments shall not be permitted.

(e) Directional drilling under an open canal may be considered if a minimum clearance of twenty–five (25) feet is maintained between the casing, or carrier pipe if no casing will be installed, and the bottom of the canal lining. A geotechnical report shall be submitted for review by the Department prior to approval of the proposed utility crossing. Deviations from Section 612.63 (c), Article 6 of these Regulations (regarding casing requirements) may be considered by the Department if the alternate casing will not increase the potential for damage to, or contamination of, State Water Project facilities or right–of–way.

(f) Utilities under the Department's operating roads shall be a minimum of thirty–six (36) inches under the road surface.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899, 12899.1(a), 12899.1(c) and 12899.2, Water Code.

HISTORY
1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.62. Overhead Electrical and Communication Utilities.

(a) Minimum overhead electrical conductor and communication line clearances shall equal or exceed the California State Public Utilities Commission's General Order 95, "Rules for Overhead Electric Line Construction" (REV 1/2012), pages III–24 through III–34, inclusively, hereby incorporated by reference .

(b) The following additional departmental requirements shall apply to overhead electrical/communication installations across the State Water Project's canals:

(1) Twenty–five (25)–foot minimum clearance above operating roads and berms from the lowest sag point of the electric conductor or communications line.

(2) Twenty (20)–foot minimum clearance above existing ground surfaces within full cut sections and finished spoil or protective embankments from the lowest sag point of the electric conductor or communication line.

(c) The Department requires the following items for an overhead line crossing:

(1) Poles or towers shall not be allowed within the Department's right–of–way. Exceptions will only be considered by the Department if the placement of the pole or tower will not affect the Department's ability to operate, maintain or modify the State Water Project Aqueduct.

(2) Overhead electrical and communication lines shall cross perpendicular to the centerline of the State Water Project's facility.

(d) A marker warning sign shall be provided, showing the clearance and line voltage. The warning sign shall face oncoming traffic and state "DANGER HIGH VOLTAGE OVERHEAD."

(e) An Emergency Response Plan must be submitted to the Department for review and approval.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899, 12899.1(a), 12899.1(c) and 12899.2, Water Code.

HISTORY
1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.63. Casing Requirements.

(a) Pipelines carrying hazardous material or pollutants, including, but not limited to: oils, gasoline, sewage, contaminated waters, non–potable waters, shall be encased. Pipelines transporting potable water do not require casings.

(b) Pipelines attached to a bridge or an overchute shall be sleeved through the aqueduct embankment and protective dikes.

(c) The applicant shall provide a 5/16–inch minimum thickness steel casing pipe. The inside diameter of the casing pipe shall be a minimum of 4 inches larger than the maximum outside joint diameter of the carrier pipe. The ends of casing pipes shall be sealed with casing end seals (LINK SEAL or an equivalent approved by the Department). The casing shall be leak tested in the presence of a Department inspector to verify that it is sealed.

(d) The sleeve or casing for pipelines buried beneath the primary and secondary operating roads along the open canal embankments shall be fully concrete encased through the canal embankments, unless stamped engineering calculations are submitted to the Department that verify that encasement is not required.

(e) A minimum two (2)–inch inner diameter drain line shall be provided at the low end of the casing pipe and drain away from the aqueduct. The drain line shall terminate in a valve protected from vandalism and the drain valve shall be maintained in the open position. A three (3)–inch galvanized steel guard post (Schedule 80 or better) shall be installed adjacent to each drain line. The posts shall extend five (5) feet above the ground and eighteen (18) inches below ground. The bottom of the posts shall be embedded in at least one (1) cubic foot of concrete. A sign shall be installed containing the name of the owner/operator, contents of the pipeline, utility identification, and emergency contact telephone number.

(f) Casing couplings shall be a flexible single and expansion type coupling equivelant to Smith Blair Type 611 or Dresser Style 63 that will account for a differential temperature range of 140 degrees Fahrenheit. The casing shall be mounted to the bridge or overchute by placing Teflon pads around the casing between the wall hanger brackets and U–bolts. The U–bolts should be installed with lock nuts at the top of the bracket and below the top angle and tightened to a point that stills movement.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899, 12899.1(a), 12899.1(c) and 12899.2, Water Code.

HISTORY
1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.64. Hazardous Material Carrier Requirements.

(a) No hazardous material will be permitted to cross above open waters of the State Water Project. Exceptions will only be considered if the crossing over open water will not increase the potential for contamination of the waters of the State Water Project.

(b) Where the Department allows hazardous material to cross the open waters of the State Water Project, the applicant shall:

(1) Submit a final hazardous material spill contingency plan, a leak detection plan, and an emergency response plan prior to start of construction.

(2) Prevent any hazardous material entering into the open waters of the State Water Project.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899, 12899.1(a), 12899.1(c) and 12899.2, Water Code.

HISTORY
1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.65. Attaching Utilities to Cross–Drainage Structures.

(a) The applicant shall follow all the following specific requirements for attaching utilities to cross–drainage structures:

(1) Anchor bolt locations shall not intercept the critical reinforcing steel of the cross–drainage structure.

(2) After installation, exposed metal surfaces shall be cleaned and primed with paint of the same quality as that used for shop coat.

(3) Utilities shall not be permitted to be installed inside the cross–drainage structure.

(4) Lateral supports for the utility shall withstand a seismic loading of no less than 0.5g (Include Pipe Material and Content inside the pipe in the calculation). Spacing of supports shall not exceed a maximum of twelve (12) feet.

(5) Anchor bolts shall be hot–dipped galvanized double wedge conforming to Federal Specification FF–S–325 Amendment No. 3, Group II, Type 4, Class 1; and shall be installed according to the manufacturer's instructions, or equivalent.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899, 12899.1(a), 12899.1(c) and 12899.2, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.66. Utility Crossing the State Water Project's Underground Pipelines.

The applicant shall follow all the following specific requirements for any utility that crosses SWP buried pipeline:

(a) The applicant shall submit for review and approval by the Department the procedures, excavation plans, schedules, and type and weight of the construction equipments to be used for crossing the State Water Project's pipeline.

(b) All utilities crossing a State Water Project's pipeline shall be in a corrosion–protected and self–supported 5/16–inch minimum thickness steel casing pipe at least four (4) inches larger than the carrier pipe.

(c) In areas where open excavation may be used to expose the State Water Project's pipeline, the casing shall span over the limits of the open excavation plus additional bearing length on both sides of the excavation based on the physical characteristics of the soil.

(d) In areas where shoring may be used to expose the State Water Project's pipeline, the casing shall span over the pipeline plus a minimum of six (6) feet and any additional bearing length required based on the physical characteristics of the soil on each side of the pipeline, measured perpendicularly to the pipeline.

(e) All utility crossings under the State Water Project's pipeline shall be performed by using the boring/jacking method. The gap between the borehole and the casing shall be filled with cement grout. The annular space between the casing and the utility shall be filled with cement slurry.

(f) For utilities crossing above or under the State Water Project's pipeline, the minimum vertical clearance between the casing of the utility and State Water Project's pipeline shall be three (3) feet.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899, 12899.1(a), 12899.1(c) and 12899.2, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 612.67. Utility Crossing Under the State Water Project's Roads.

(a) The applicant's plan shall clearly show the Department with cross sections delineating existing ground surface elevations, utility trench invert elevations, and utility details.

(b) Conduits with diameters up to five (5) inches shall be jacked or bored underneath pavements. Larger conduits may be considered if the applicant demonstrates that the Department road surface will not be affected by the larger bore.

(c) Conduit(s) shall be a minimum of three (3) feet below the road surface.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c), 12899.2(b) and 12899.2(c), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

Article 7. Corrosion Protection Requirements

§ 615.1. Cathodically Protected Metallic Pipelines.

Pipelines installed within the Department's right–of–way shall be cathodically protected in such a manner as to ensure that the installation is electrically continuous and dielectrically isolated from grounded State Water Project structures and permittee's supplied equipment. All submittals shall include details of the cathodic protection system (CPS) and its appurtenances.

(a) All existing State Water Project cathodic protection test stations shall be located by the permittee prior to any grading or excavation. Additionally, all existing State Water Project cathodic protection test stations shall be:

(1) Staked and flagged by the permittee.

(2) Enclosed or protected during construction of the encroachment as approved by the Department.

(b) Any relocation or modification of the State Water Project's cathodic protection test stations shall not be allowed. Exceptions to this policy may be considered by the Department only if the applicant demonstrates that the relocation or modification will not affect the Department's ability to maintain cathodic protection of the State Water Project.

(c) Non–welded mechanical, stab, or gasketed pipe joints shall be continuity bonded with one (1) #8 AWG (American Wire Gauge) HMWPE (High Molecular Weight Polyethylene) cable attached by the thermite weld process or inductive weld stud process. The weld area and exposed cable shall be coated with a one–hundred (100) percent solids epoxy or covered with a butyl–rubber weld cap specifically designed for this purpose.

(d) Insulating flange kits, insulating unions, and insulating fittings shall be used at locations where there is contact with grounded structures, including but not limited to: pumps, electric valves, telemetering systems, and vault penetrations.

(e) Cathodic protection shall be provided by the use of sacrificial anodes, unless the proposed installation is a continuation of an existing pipeline where impressed current cathodic protection is presently in use. Additional impressed current cathodic protection equipment may be considered by the Department only if the applicant demonstrates that the additional equipment will not affect the Department's existing or future corrosion protection systems.

(f) A means of monitoring the effectiveness of the CPS shall be provided by the applicant within the Department's right–of–way. The number of anodes and test stations may differ with each project. The application and monitoring of the CPS shall conform to Sections 195.567 through 195.588, inclusive, Title 49 of the Code of Federal Regulations, Part 195, Department of Transportation, "Transportation" (REV 10/1/2010), hereby incorporated by reference.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899, 12899.1(a), 12899.1(c) and 12899.2, Water Code.

HISTORY

1. New article 7 (sections 615.1–615.3) and section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 615.2. Steel Casing Pipelines Crossing Above the State Water Project's Open Canals and Pipelines.

The Department has determined that cathodic protection to buried steel casing pipe is NOT a preferred method of corrosion control. If cathodic protection is required, it shall be provided by sacrificial magnesium anodes. The Department may waive cathodic protection to casing pipe if:

(a) The space between the casing and the carrier pipe has a full grout seal, unless otherwise precluded by federal regulations.

(b) Full concrete encasement of the buried casing pipe designed for applicable wheel load requirements on the primary and secondary roads.

(c) Mortar–coated steel pipe without cathodic protection may be used only in benign soil environments. A soil corrosivity analysis shall be submitted by the applicant.

(d) Non–metallic casing pipe with concrete encasement is used.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899, 12899.1(a), 12899.1(c) and 12899.2, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 615.3. Protective Coatings for Corrosion Control.

(a) Exposed Pipeline and Casing Pipe

The coating shall be a high build modified aluminum epoxy mastic primer and top coated with a high build aliphatic urethane. The finish color shall be a type of beige, similar to the Sherwin Williams Bungalow Beige SW2032. If an alternative coating system is preferred, the applicant shall submit data sheets and details for the Department's review and approval. The type of coating shall be listed in the submitted plans and specifications and shall include the surface preparation and the thickness of the coating to be applied.

(b) Buried Pipeline and Casing Pipe

Applicant shall provide the type of coating to be applied to the carrier or casing pipe. The type of coating shall be listed in the submitted plans and specifications and shall include the surface preparation and the thickness of the coating to be applied.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(c) and 12899.2(b), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

Article 8. Encroachment Permit Evaluation Process

§ 618. Departmental Determination of Application Completeness.

The Department is statutorily required to determine if an encroachment permit application is complete. The Department shall either approve or deny an application based on a determination of completeness.

(a) The Department, within thirty (30) days of receipt of the application, shall notify the applicant whether the application for an encroachment permit is complete.

(b) Applications shall be determined by the Department to be complete when all documentation and information required by these regulations are included in the permit application and there are no further changes that need to be made to the application in order for the application to be considered complete.

(c) Within sixty (60) days of receipt of an application determined by the Department to be complete, the Department shall approve or deny the application for an encroachment permit. Such approval or denial will be communicated to the applicant in writing.

(d) If the application is approved, the applicant will be required to provide the following:

(1) A minimum of eight (8) sets of 24x36 inch plans for the approved encroachment

(2) A minimum of 1 set of 11x17 inch plans for the approved encroachment

(3) Payment of all application processing and review fees and the estimated construction supervision and inspection costs

(4) Proof of insurance

NOTE: Authority cited: Section 12899.9, Water Code. Reference: 12899.1(e), Water Code.

HISTORY

1. New article 8 (sections 618–620) and section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 620. Notice of Application Deficiency.

(a) Where the Department has determined that the application is deficient, the Department will provide the applicant with a comment letter explaining the deficiencies.

(b) Applicant shall respond to the Department's notice of deficiency within 60 days from the date of notice. If the Department does not receive a response to the notice within 60 days, the application will be considered abandoned and all unpaid review and administrative costs incurred by the Department in processing the application shall be paid by the applicant.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.1(e), 12899.2(b), 12899.2(d), 12899.2(e), 12899.2(f) and 12899.2(g), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17). For prior history of section, see Register 79, No. 4.

Article 9. Unauthorized Encroachments

§ 625.1. Department's Authority to Remove Unauthorized Encroachments.

If any encroachment exists within the Department's right–of–way, the Department may require the removal of the encroachment in the manner provided pursuant to Sections 12899.5 and 12899.6 of the Water Code.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.5, 12899.6, 12899.7 and 12899.8, Water Code.

HISTORY

1. New article 9 (sections 625.1–625.7) and section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 625.2. Department's Unauthorized Encroachment Notification, General Information.

(a) Except as provided in subdivision (e), Section 12899.5 of the Water Code, notice shall be given to the owner, occupant, or person(s) in possession of the encroachment, or to any person(s) causing or permitting the encroachment to exist, by serving a notice including a demand for the immediate removal or abatement of the encroachment from within the Department's right–of–way.

(b) The notice shall describe the encroachment with reasonable certainty as to its character and location.

(c) In lieu of service upon the person(s), service of the notice may also be made by registered mail and posting for a period of five (5) days, a copy of the notice on the encroachment described in the notice. In the case of an owner, occupant, or person(s) in possession who is not present in the county, the notice may be given to an agent, including a registered agent designated with the California Secretary of State, in lieu of service by mailing and posting.

(d) If the respondent(s) fails to respond within the notice period asserting a legal right consistent with Section 12899.8 of the Water Code, the Department may seek judicial enforcement, assess One Thousand Dollars ($1,000.00) for each day that the unauthorized encroachment, use or activity remains after the expiration of the period to respond specified in the notice, and recover the Department's cost of removal or remediation or abatement.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.5(b), 12899.5(c), 12899.5(g) and 12899.8, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 625.3. Non–Emergency Situations Notification and Removal of Unauthorized Encroachment.

(a) The Department may remove from the State Water Project any right–of–way encroachment that meets both of the following criteria:

(1) Not later than sixty (60) days from the date on which notice was given pursuant to subdivision (b), Section 12899.5 of the Water Code, the owner, occupant, or person in possession of the encroachment has not asserted a right to be in possession consistent with Section 12899.8 of the Water Code and has not removed, or commenced to remove in a diligent manner, the encroachment.

(2) The encroachment obstructs, threatens, or prevents the proper operation, maintenance, or rehabilitation of the State Water Project.

(b) If the Department removes any encroachment upon the failure of the owner to comply with the notice pursuant to subdivision (b), Section 12899.5 of the Water Code, the Department may recover the expense of the removal, costs and expenses of suit, including attorneys fees, and, in addition, the sum of One Thousand Dollars ($1,000.00) for each day the encroachment remains after the expiration of the applicable response period described in subdivision (c), Section 12899.5 of the Water Code.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.5(b), 12899.5(c), 12899.5(e), 12899.5(g) and 12899.8, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 625.4. Imminent Threat Situations Notification and Removal of Unauthorized Encroachments.

(a) The Department may immediately remove from the State Water Project any right–of–way encroachment that meets both of the following criteria:

(1) Not later than five (5) days from the date on which a notice is given pursuant to subdivision (b), Section 12899.5 of the Water Code, the owner, occupant, or person(s) in possession of the encroachment has not asserted a right to be in possession consistent with Section 12899.8 of the Water Code and has not removed, or commenced to remove in a diligent manner, the encroachment.

(2) The encroachment poses an imminent threat to the integrity of the State Water Project.

(b) If the Department removes any encroachment upon the failure of the owner to comply with the notice pursuant to subdivision (d), Section 12899.5 of the Water Code, the Department may recover the expense of the removal, costs and expenses of suit, including attorneys fees, and, in addition, the sum of One Thousand Dollars ($1,000.00) for each day the encroachment remains after the expiration of the applicable response period described in subdivision (d), Section 12899.5 of the Water Code.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12899.5(b), 12899.5(d), 12899.5(e), 12899.5(f), 12899.5(g) and 12899.8, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 625.5. Emergency Situations Notification and Removal of Unauthorized Encroachment.

(a) In the case of an emergency, the Department has the authority to take any action necessary to avert, alleviate repair, or mitigate any threat to the State Water Project. An emergency, pursuant to subdivision (e), Section 12899.5 of the Water Code, is defined as a sudden, unexpected occurrence that in the opinion of the Department poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss of impairment of life, health, property, or essential public services.

(b) If the Department removes any encroachment pursuant to subdivision (e), Section 12899.5 of the Water Code, the Department may recover the expense of removal, together with the costs and expenses, including attorneys fees, incurred in that action.

NOTE: Authority cited: Sections 128 and 12899.9, Water Code. Reference: Sections 12899.5(e), 12899.5(f), 12899.7 and 12899.8, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 625.6. Diversion, Drainage, Seepage, or Overflow of Water onto Departmental Right–of–Way.

(a) It is unlawful for any person to do any of the acts described in subdivision (a), Section 12899.6 of the Water Code.

(b) If a notice is given by the Department, in the manner provided in subdivision (b), Section 12899.6 of the Water Code, to any person(s) permitting a condition to exist, as described in subdivision (a), Section 12899.6 of the Water Code, the person(s) shall immediately cease and discontinue the diversion of waters or shall discontinue and prevent the drainage, seepage, or overflow and shall repair, or pay for the repair, of any damage to the State Water Project or the Department's right–of–way. The person(s) to whom the notice is provided may challenge, in a court of competent jurisdiction, the propriety of the determination by the Department.

(c) If any person(s) is notified pursuant to subdivision (b), Section 12899.6 of the Water Code and fails, neglects, or refuses to cease and discontinue the diversion, drainage, seepage, or overflow of the waters or to make or pay for the repairs, the Department may make repairs and perform work as it deems necessary to prevent the further damage to the Department's right–of–way or the State Water Project resulting from the diversion, overflow, or seepage of the waters.

(d) The Department may recover in an action at law, in any court of competent jurisdiction, the amount expended for those repairs and work, and in addition, the sum of One Thousand Dollars ($1,000) for each day the drainage, diversion, overflow, or seepage of the waters is permitted to continue, after the service of the notice in the manner specified as subdivision (b), Section 12899.6 of the Water Code, together with the costs and expenses, including attorneys fees, incurred in the action.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.6, Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

§ 625.7. Criminal Prosecution of Unauthorized Encroachers.

If any unauthorized encroachment remains after the expiration of the response period specified in the notice of unauthorized encroachment, and the unauthorized encroachment falls under subdivision (f), Section 12899.1 of the Water Code, a copy of the notice of unauthorized encroachment and the demand for immediate removal or abatement along with any inspection reports or documentation may be sent to the local law enforcement agency for criminal prosecution of the misdemeanor.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Section 12899.1(f), Water Code.

HISTORY

1. New section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

Article 10. General Encroachment Permit for Operations and Maintenance by Public Agencies

§ 635.0. Routine Operations and Maintenance of Facilities by Public Agency Water Contractors.

(a) The Department, not later than sixty (60) days from the date on which it receives a complete application, shall issue a general encroachment permit, for a period not to exceed ten (10) years, for routine operation and maintenance activities of public agencies with a contract with the Department for delivery of water pursuant to subdivision (b), Section 12937 of the Water Code.

(b) For the purposes of this section, "operation and maintenance" means inspection, equipment testing and maintenance, water quality monitoring and testing, weed and pest abatement, and other similar activities consistent with existing agreements between the Department and its water contractors.

NOTE: Authority cited: Section 12899.9, Water Code. Reference: Sections 12937 and 12899.11, Water Code.

HISTORY

1. New article 10 (section 635.0) and section filed 4–22–2015; operative 7–1–2015 (Register 2015, No. 17).

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