



Action Item: Consideration of Revised State Water Project Encroachment Permit Regulations

Background

The Department of Water Resources (DWR) oversees and issues encroachment permits for activities along the State Water Project (SWP). Activities include construction of road improvements over pipelines; utility work above or below the ground surface; real estate development on adjacent property; and certain types of farming activities.

The encroachment permit requirement allows DWR to ensure that the SWP facility is adequately protected during activities related to construction of improvements in or around the SWP right of way, and to ensure that the State's property rights and ability to operate and maintain its facilities are not infringed upon without the State's consent and concurrence. Water Code sections 12899 through 12899.11 affirm DWR's authority to control access to the SWP right of way with an encroachment permit process, and provide DWR the statutory authority to create regulations to protect and enforce its right of way along the SWP.

DWR developed proposed regulations governing the SWP Encroachment Permits through a public process, and presented an overview of the regulations at the Commission's August 2012 meeting. In June 2013, the Commission gave initial approval to the proposed regulations. Subsequently, DWR held one 45-day public comment period and one 15-day public comment period. In May 2014, the Commission adopted the regulations which were submitted to the Office of Administrative Law (OAL) for final approval. OAL provided some feedback and DWR voluntarily withdrew the regulations, made revisions, and conducted an additional 15-day public comment period. The Commission approved those revisions in October 2014 and the regulations were submitted to OAL. OAL disapproved the regulation package due to clarity issues and procedural requirements.

DWR has since made minor changes to the text of the regulations. Upon approval by the Commission, DWR will resubmit the final rulemaking package to OAL.

Contact

Rachel Ballanti
Acting Executive Officer
California Water Commission
(916) 657-7937