

**DEPARTMENT OF WATER RESOURCES
ENCROACHMENT PERMIT PROGRAM
EP FAQ's**

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+ **What is an Encroachment Permit (EP)?**

An EP allows the Permittee permission for specific facilities to be installed/altered within State Water Project (SWP) right of way. An EP is needed for DWR to adequately evaluate the risks to the SWP. When evaluating encroachment proposals, DWR takes into consideration the design as well as future maintenance needs or possible negative impacts that will impair the ability to deliver water.

An EP may require the Permittee to relocate or remove the encroachment in the event the future repair, rehabilitation, or improvement of the SWP requires the relocation or removal of the encroachment at the sole expense of the permittee. Furthermore, pursuant to regulations §608.3, Permittee shall provide written notice to DWR in the event of a sale or transfer of the Permittee's interest in property that is the subject of an EP. The right or interest included in an EP shall not pass by sale, transfer, assignment, or succession without written consent by DWR. Failure to notify DWR of the transfer will terminate the right or interest conferred by the EP.

Any abandoned facilities must be removed from DWR's right of way. Pursuant to Regulations §610.3(m), 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 DWR's facilities and right-of-way equivalent to the condition immediately prior to the commencement of the permitted work. Permittee must provide engineered construction plans for removal prior to construction. Only after DWR has approved the plans can the Permittee begin construction.

+ **When do I need to get an EP?**

An EP is required when a project proposes to install/alter a facility in/on/over/under DWR's right of way. Examples include:

- Alteration of the existing ground surface by more than one foot
- Buried fiber optic cables
- Installation/alteration/abandonment of pipes or conduits such as sewage and water
- Bridge installations/alterations
- Parking lots, driveways, grading, bike paths, landscaping
- Subdivisions
- Utility installation/replacements/alterations
- Drainage or diversions of water

+ **Is your development within one mile of the SWP?**

DWR must be notified of any pending subdivision of property within one mile of SWP facilities in accordance with Government Code 66455.1 to allow DWR the opportunity to evaluate potential effects of the proposed subdivision on SWP facilities, and to convey concerns to the local agency having jurisdiction for consideration in the tentative map approval process.

Even if your planned development does not fall within the requirements of Government Code 66455.1, but is within one mile of SWP facilities, it would be prudent to consider the potential effects of your project on SWP facilities and to consult with DWR if there appears to be even the slightest potential impact.

Submittals may be provided to DWR directly at: sb2161@water.ca.gov

+ **What is the cost of obtaining an EP?**

The initial application fee of \$1,500 is required when the EP application is submitted. The initial application fee will be credited towards the total cost incurred by the DWR to administer, review, and issue the EP, and inspect construction activities. DWR 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. Typically, invoices are sent with comment letters. The Department will suspend processing of an encroachment permit if these invoices are not paid. The Applicant is responsible for all application processing fees, review costs, and the estimated construction supervision and inspection costs.

At the issuance of the EP, DWR will invoice for outstanding review costs and estimated inspection costs. A DWR inspector is required to be on site during construction activities of the EP within SWP's right of way, at the cost of the Applicant. EPs will not be executed by DWR for construction to begin until all outstanding payments are made. Payments will be reconciled at the EP closeout after as-builts are submitted. Refunds or further invoicing may be required per the cost reconciliation.

+ **What if I own the property and/or have an existing property right? Do I still need an EP?**

A person asserting an exemption must submit a copy of the agreement or documentation of real property interest to DWR and DWR will respond within 30 days of receipt of the documentation. Regardless of whether a person has an exemption, everyone must submit their plans for DWR review and comply with all DWR requirements.

+ **How long does it take to get an EP?**

Pursuant to Regulations §618, within thirty **(30)** days of receipt of the application, DWR shall notify the applicant whether the application for an EP is complete.

Once the application is deemed complete, DWR is allowed sixty **(60) days for every round of technical review**, to then approve the EP or provide comments of deficiencies that need to be addressed through an additional round of plan submittal review. The EP goes through seven different technical DWR review disciplines for review including: Civil Engineering Branch, Operation and Maintenance Branch (Headquarters and Field Division), Environmental Branch, Geomatics Branch (Land Survey), Construction Branch, Real Estate Branch, and Project Headquarters.

Depending on the complexity and completeness of the plan set, multiple submittals, each with sixty (60) day review periods, may be required before an EP is approved.

+ **When should I submit my EP application?**

The EP application requires the final design for construction. Any applicant driven re-design will require additional DWR review and time.

For proposed complex EP projects, or ones with anticipated significant impact to the SWP, it is recommended that Applicants reach out to DWR for early coordination and/or conceptual feedback.

+ **How do I know if my project is within the SWP right of way to trigger an EP? How do I find DWR facilities and survey monuments?**

Any construction within the SWP right of way (ROW), triggers an EP. DWR requires our facilities and ROW limits to be shown on the EP applicant's design plans submitted in the application package.

<https://dwr.maps.arcgis.com/apps/webappviewer/index.html?id=d139ce32be9e43059b932c21521acfe1>

To identify DWR facilities on design plans, DWR as-builts may be requested by emailing:
swp.encroachments@water.ca.gov

+ **What do I need to submit for an EP?**

Read and follow the [Regulations](#) for full, detailed requirements.

- A DWR EP Application Form and Supplemental Application Information can be found here: [EP Application; Supplemental Application](#)
 - These indicate required documentation for the package as well as checklist for applicant for minimum sufficiency, for review by DWR.
- Final design for construction needs to be included in the application (any re-design will require additional DWR review/time). Approved EP plans must include the original California registered professional engineer's stamp and signature §610.1(b)(2)
- For a more comprehensive EP application package, please refer to [EP Plan Set Guidance Document](#).
- [Environmental Requirements for EP application](#). See more detail in [environmental requirements FAQ](#) below.
- [Land Survey Requirements](#) - See more detail in land [survey requirements FAQ](#) below.

+ **What are DWR's environmental requirements for an EP application?**

Pursuant to Regulations §610.1(c)(1), each application will be evaluated by DWR with respect to the applicant's compliance with Federal, State and local environmental laws, but not limited to:

- The California Environmental Quality Act, Public Resources Code section 21000 et se. (CEQA) and the CEQA Guidelines, Title 14, California Code of Regulations, section 15000 et seq.
- The Public Resource Code 5024.
- The National Environmental Policy Act, Title 42 of the United States Code section 4321 et seq.

Pursuant to Regulations §610.1(c)(2), the Permittee shall provide written confirmation of compliance with all Federal, State and local environmental requirements and associated regulatory permits. Throughout construction activities, the Permittee shall fulfill all identified environmental issues/requirements.

Please refer to the [Environmental Documentation](#).

+ **What are DWR's land survey requirements for an EP application?**

In accordance with Business and Professions Code §8771, DWR's EP Program requires the Permittee to ensure there is a designated individual in responsible charge for the protection of survey control and monument preservation within the area in which construction will be conducted.

The designated individual shall be a person legally authorized to practice Land Surveying in the State of California and will stamp the plans where DWR right of way is shown. The applicant shall have the licensed land surveyor, or civil engineer authorized to practice land surveying, sign and stamp the submitted design plans taking responsibility for the DWR right of way shown on the drawings pursuant to Business and Professions Code 8726.

Please refer to the [land survey](#) for more detailed requirements, including required forms

+ **Can my EP application be denied?**

Pursuant to Regulations §603.5, DWR may deny an application if DWR determines that the proposed use may pose a threat to the physical integrity of the SWP or could interfere with the DWR's rights regarding access, inspection, repair, or the operation and maintenance of any SWP facility. If DWR denies an application for an EP, it shall provide an explanation in writing for the denial to the applicant. Typically, DWR informs the applicant prior to denial to provide the applicant the opportunity to modify the project in a way that will not pose a threat to the SWP or interfere with DWR's rights.

+ **What happens if I don't get an EP?**

Encroachments installed/altered/removed without review and approval from DWR through the EP Program or unauthorized acts described in Section 12899.6 of the Water Codes, are unauthorized encroachments and must be removed or authorized. These unauthorized encroachments can have significant impacts to everything from DWR's ability to access or efficiently operate SWP facilities, to catastrophic impacts eliminating DWR's ability to deliver water from damaged facilities.

Regulations §625.1-625.7 outlines DWR's authority to assess and remove unauthorized encroachments, along with penalties of up to \$1,000/day and/or criminal prosecution.

+ What is the EP Process:

