

COACHELLA VALLEY WATER DISTRICT
CANAL WATER SYSTEM
RIGHT-OF-WAY ENCROACHMENT POLICY
SEPTEMBER 2016

This Policy is intended to provide procedures to mitigate encroachments within the Coachella Valley Water District (“CVWD”) and the United States Bureau of Reclamation (“USBR”) right-of-way (“ROW”). On May 7, 2007, CVWD Board of Directors adopted Resolution No. 2007-100, Right-of-Way Encroachment Policy. This updated Policy supersedes and rescinds Resolution No. 2007-100.

Background.

1. CVWD and USBR have extensive ROW holdings throughout the Coachella Valley. At the center of these holdings are the Coachella Branch of the All-American Canal (Coachella Canal), Protective Works (Flood Protection Dikes and Channels), Irrigation Distribution System and Agricultural Drainage System (collectively “Canal Water System Facilities”). The Canal Water System is owned by USBR with the exception of the Agricultural Drainage System, which is owned by CVWD. CVWD operates, maintains and replaces the Canal Water System Facilities. The Irrigation Distribution System includes 485 miles of irrigation pipelines and the Agricultural Drainage system includes 21 miles of open drains and 166 miles of drain pipelines.
2. The Canal Water System Facilities were designed and constructed from 1947 to the 1960s to serve Coachella Valley agriculture in a rural desert environment. ROW was obtained to accommodate these facilities in the form of federal land withdrawals, fee-owned land, or easement. In many cases, the extent of ROW acquired was limited to the dimensions of the facility with limited side clearance because encroachment due to urbanization was not anticipated. In addition, many of the facilities were not designed structurally to withstand the rigors of an urban environment. The Canal Water System Facilities are being encroached upon, which in some cases is causing adverse effects. For example, a ten-foot ROW for a 48-inch irrigation pipeline does not provide adequate space for pipeline maintenance or repair if new homes are built to the edge of the ROW.
3. USBR Withdrawn and Fee-owned Land. USBR requires an agreement between USBR and project proponent, with CVWD consent, when the project will affect USBR withdrawn and fee-owned lands or may interfere with certain USBR facilities. This agreement allows the project proponent to own, operate, and maintain their project facility within the USBR ROW. This USBR agreement requires CVWD and USBR to review and approve the proposed project's affect or interference to the Canal Water System Facilities.
4. USBR ROW (other than withdrawn or fee-owned lands). In instances that affect or may interfere with USBR ROW, other than withdrawn or fee-owned lands, an Agricultural Noninterference Review Letter (“Ag NIRL”) (see attached template) may be issued by CVWD for encroachments proposed or existing. Additionally, USBR consent must be obtained.

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Policy.

The purpose of this Policy is to mitigate the impacts of ROW encroachment of the Canal Water System. A variety of measures are available, including: (a) no mitigation, (b) facility relocation, (c) facility replacement, (d) dedication of additional ROW to protect existing facilities, (e) other ROW mitigation, and (f) no encroachment allowed. The following outlines the procedures to mitigate an encroachment within CVWD or USBR ROW:

1. When an Encroachment Permit is requested from CVWD regarding any project (except Agricultural Cultivation) that will or may encroach upon the Canal Water System Facilities ROW, or any other CVWD facility, in addition to any requirements of USBR when applicable, CVWD's General Manager, or his designee, shall evaluate the potential adverse impacts that will or may result from the proposed encroachment and shall determine the mitigation required to reduce the potential impacts to an acceptable level. The implementation of said determination to the satisfaction of the General Manager or his designee shall be made a condition of the issuance of the USBR Agreement and/or CVWD Encroachment Permit.
2. When an Agricultural Cultivation encroachment is requested or discovered by CVWD that will or may encroach upon the Canal Water System Facilities ROW, or any other CVWD facility, in addition to any requirements of USBR when applicable, CVWD's General Manager, or his designee, shall evaluate the potential adverse impacts that will or may result from the proposed encroachment and shall determine the mitigation required to reduce the potential impacts to an acceptable level. The implementation of said determination to the satisfaction of the General Manager or his designee shall be made a condition of the issuance of the USBR Agreement or CVWD Ag NIRL with USBR consent.
3. By way of guidance, the General Manager, or his designee, is authorized to require the appropriate level of mitigation to protect and preserve CVWD and/or USBR facilities ranging from the following options:
 - a. No mitigation
 - b. Facility relocation
 - c. Facility replacement
 - d. Dedication of additional ROW
 - e. Other ROW mitigation
 - f. No encroachment allowed