



Encroachment Permit Application/Request for Real Estate Services

Date: _____

Permittee/Applicant (Party to whom the permit, if granted, will be issued). Permittee must be the entity who is responsible for owning and maintaining the work performed:

Name: _____ Company Name: _____

Address: _____ City: _____ Zip: _____

Contact Phone No. 1): () _____ 2): () _____ Email: _____

Agent (Specify "same" if Agent is the Applicant. All correspondence will be sent to Agent unless otherwise specified):

Name: _____ Company Name: _____

Address: _____ City: _____ Zip: _____

Contact Phone No. 1): () _____ 2): () _____ Email: _____

Project/Work Location Information:

Address: _____ City: _____ Nearest Cross Street: _____

APN: _____ Anticipated Start Date: _____ End Date: _____

Valley Water Facility (if known): _____

► This request is for (check all that apply):

- | | | | |
|---|---|---|--|
| ☐ Soil Boring/Well | ☐ Fence Installation/Repair | ☐ Landscaping | ☐ Temporary Access-vehicular |
| ☐ Adopt-A-Creek | ☐ Tree Removal/Trimming | ☐ Trail | ☐ Temporary Access-pedestrian only |
| ☐ Utility Installation | ☐ Outfall Construction/Repair | ☐ Erosion Repair | ☐ Other—describe below |
| ☐ Grading | ☐ Bridge Construction/Repair | ☐ Fish Stocking | ☐ Real Estate Services—describe below |
| ☐ Valley Water Grant | ☐ Hydraulic Analysis Peer Review for City/County | | |

Description of Project or Activity (add additional sheets as necessary):

► Have you previously discussed this project with Valley Water staff? ☐ Yes ☐ No

If Yes, identify unit and/or staff member. _____

► Are other County/City approvals or permits required? ☐ Yes ☐ No

If Yes, identify agency, approval or permit required, and contact person.

► Do you have property rights to perform work on Valley Water right of way or facilities? ☐ Yes ☐ No

If Yes, provide copies of the deed or legal document granting you rights.



Complete Application Package: A complete encroachment permit application package comprises of the completion of this Encroachment Permit Application along with the submission of all the information, drawings, reports, and other documents required by Valley Water (which includes the documents specified in the attached Encroachment Permit Application Requirements). As an Applicant, you must show that the proposed work will not adversely impact Valley Water's interests, including without limitation, the hydraulics, hydrology, structural integrity, maintenance, and property rights of Valley Water's right-of-way. To the extent you seek a Valley Water encroachment permit on an area where Valley Water only has an easement right, you must submit with this application the underlying fee owner's written permission authorizing you to carry out your project on Valley Water's easement area.

Real Estate Services: Transfers of land rights from Valley Water, including granting fee title ownership, easements, quitclaims, or exchanges, are subject to the limitations of Valley Water's legal authority and approval by Valley Water's Board of Directors.

Except in the case of proposed real property dedications to Valley Water, requestors will be charged for staff costs and for the following: appraisal costs, real property value, due diligence hazardous substance liability assessment (HSLA) costs, CEQA costs, cost of staff time and other applicable costs.

For staff to consider requests to transfer land rights **from Valley Water to other parties**, a variety of information is required, including:

- A current title report.
- Plat and legal description prepared by a licensed land surveyor.
- Phase 1 due diligence report, if available, or Phase II and satisfactory evidence of remediation.
- Environmental documents for project, if applicable.

Payment of Fees: The application fee submitted with this application is only the fee for filing this application. The application fee does not include additional fees that you may be required to pay pursuant to the Standard Rate Schedule then in effect (i.e., Valley Water's current Standard Rate Schedule is attached to this application). Progress billings, if any, will be provided to you during Valley Water's review and processing of your application. By submitting this application, you agree to pay all amounts charged for the review and processing of this application and any subsequent modifications, within 30 days of the billing date. Failure to make such payments will result in Valley Water not taking any further action on processing your application until such payments are received. Valley Water's denial of issuing you an encroachment permit or completing a transfer of land rights does not relieve you of the payment of any accrued and unpaid billings for the Valley Water's review or processing of this application.

Duly Authorized Agent: _____ (initial if applicable) The Agent identified on this application is duly authorized to act on my behalf in all matters pertaining to the Water Resources Protection Ordinance encroachment permit process.

Applicant Signature: _____

Applicant Name: _____

Date: _____



Project Assessment for an Encroachment Permit

Valley Water, at their sole discretion may issue you an encroachment permit if your project or activity meets the criteria defined in Santa Clara Valley Water District Water Resources Protection Ordinance. This ordinance requires that certain findings be made, based on substantial evidence provided in response to the following questions. To aid us in evaluating your project relative to these criteria, please respond, and explain as appropriate, to the following questions. Valley Water staff will review these responses and make independent findings based on the plans and other information provided for the project. Submit your responses with your encroachment permit application.

1. Does the proposed project or activity conform to Valley Water's Water Resources Protection Manual? Describe any variations or exceptions. A copy of Valley Water's Water Resources Protection Manual is available at Valley Water offices or on-line at www.valleywater.org.
☐ No ☐ Yes
2. Will the proposed project or activity impede, restrict, retard or change the direction of the flow of water in a stream?
☐ No ☐ Yes
3. Will the proposed project or activity catch or collect debris carried by such water?
☐ No ☐ Yes
4. Is the proposed project or activity located where the natural flow of storm and flood waters will damage or carry any structure or part thereof downstream?
☐ No ☐ Yes
5. Will the proposed project or activity damage, weaken, erode or cause siltation or reduce the effectiveness of the banks to withhold storm and flood waters?
☐ No ☐ Yes
6. Will the proposed project be constructed to resist erosion and siltation?
☐ No ☐ Yes
7. How will the proposed project or activity be constructed or managed to resist the entry of pollutants and contaminants into the stream?

8. Will the proposed project or activity interfere with maintenance of the facility?
☐ No ☐ Yes
9. Will the proposed project or activity interfere with any existing structures placed or erected for flood protection, water conservation or distribution?
☐ No ☐ Yes

In addition to the above information, the following questions will be addressed by Valley Water staff and considered in making a determination for the issuance of the requested encroachment permit. Please provide any information relative to these questions that you believe will be helpful to staff in making findings.

10. Does the proposed project or activity meet the purpose and intent of the District Act? (How does the proposed project benefit stream stewardship, flood protection or water supply?)

11. Is the issuance of the Encroachment Permit in the public interest? (Why should this activity of modification be allowed on Valley Water right of way?)

12. Will the issuance of the Encroachment Permit result in conflict with or detriment to an existing or planned Valley Water facility?

Encroachment Permit Application Requirements

The following information and documents must be submitted to process your application for an encroachment permit on Santa Clara Valley Water District ("Valley Water") right-of-way pursuant to Valley Water's Water Resources Protection Ordinance and Water Resources Protection Manual ("Water Resources Protection Ordinance").

Questions about Valley Water's application of its Water Resources Protection Ordinance may be referred to Valley Water's Community Projects Review Unit staff at any time. However, you as an applicant ("Applicant") may seek from Valley Water a formal interpretation of any provision of the Water Resources Protection Ordinance. Such a formal request must be made in writing to Valley Water's Chief Executive Officer.

- **Pre-Application:** A pre-application submittal (no filing fee required) to assess the feasibility of a proposal will be accepted; however the scope of Valley Water's response may be limited.
- **Application Package:** A complete application package requires this Encroachment Permit Application (WF75189) and two (2) sets of plans. (If submitted electronically, only one copy is needed) The project package may be submitted by fax, mail, e-mail (CPRU@valleywater.org) or hand delivered to our office located at the letterhead address. ***All hard copy mail delivery other than through the U.S. Postal Service (i.e., FedEx or other express mail service) must be addressed to Santa Clara Valley Water District, 5905 Winfield Avenue, San Jose, CA 95123.***
Engineering plans and calculations, stamped and signed by a California registered engineer or architect are required for engineered or complex work. The submittal of progress prints is encouraged, however a Valley Water encroachment permit will not be issued until stamped and signed construction drawings are received and all other requirements are satisfied. Valley Water as-built or record drawings are available for some facilities. Where available, a copy of such drawings must be obtained from Valley Water and be clearly marked to show the proposed work to be done by Applicant under the Valley Water encroachment permit sought by Applicant. Applicant must include such marked up drawings in the application package submitted to the District.
- **Project Assessment:** Provide all the information required on the Project Assessment Sheet (WF75189).
- **Fees:** An initial filing fee of \$250 must be accompanied with your application package. Additional fees may also be required. Please refer to the Valley Water Standard Rate Schedule then in effect for a list of additional required charges.
- **CEQA:** Issuance of a Valley Water encroachment permit is subject to the requirements of the California Environmental Quality Act ("CEQA"). If your project is approved (or will be approved) by another public entity as the lead agency, that public entity's environmental assessment must include the activities Applicant seeks to carry out under a Valley Water encroachment permit. A copy of the document, prepared by the lead agency for the project, must be provided. Valley Water, as a Responsible Agency, will not issue a Valley Water encroachment permit until it completes the appropriate CEQA document for the proposed project. If the environmental documentation was not completed by another public agency or does not sufficiently cover the use of Valley Water right-of-way, an additional environmental assessment may be needed. All applications for an environmental assessment must be accompanied by the applicable amount identified in Valley Water's Standard Rate Schedule then in effect.
- **National Pollutant Discharge Elimination System ("NPDES"):** NPDES permit requirements must be met for discharges entering Valley Water's right-of-way. Project proponents must follow their local jurisdiction's requirements. Project plans should show how water quality pollution prevention measures have been included in the project.
- **Other Permits:** You must provide all other permits required to carry out the activities on the District's right-of-way, including without limitation, any permits required by the State Department of Fish and Game, U.S. Army Corps of Engineers, and the Regional Water Quality Control Board. If no other permits are required, Applicant must provide Valley Water with written certification that no other permits are lawfully required.

- **Federal Agency Review:** Additional review time is required for any Applicant proposed project or activity on Valley Water right-of-ways located in the areas listed below to enable Valley Water to refer such proposed project or activity to the federal agencies that sponsored or constructed improvements located at those locations.
Locations Containing Improvements Sponsored or Constructed by Federal Agencies:
 - o Guadalupe River from Alviso to Blossom Hill Road
 - o Coyote Creek from San Francisco Bay to Montague Expressway
 - o Uvas Creek from south of Thomas Road to Santa Teresa Boulevard
 - o Llagas Creek, South Morey and North Morey Channels, West Branch Llagas Creek, Lions Creek, East Little Llagas Creek
 - o Santa Clara Conduit and Pacheco Conduit
 - o Berryessa Creek from Calaveras to Hwy 680
 - o West Little Llagas Creek, from Llagas Road to Llagas Creek
- **Other Property Owner Permission:** Property lines must be accurately shown on your drawings. Permission must be obtained from all owners or entities that have property rights in the work areas, including all routes of access to and from your work site.
- **Technical Information:** All information of a technical or engineering nature that may be necessary or required for the proper accomplishment of the proposed project including soil investigations, slope and/or stream stability analyses must be provided to Valley Water. This information will be prepared and/or obtained by the Applicant at his/her own expense.
- **Alteration of Watercourses:** Applicants proposing alterations to, or bank repairs in, the watercourses must show that such work will not adversely affect the hydraulic capacity and bank stability of the watercourse and may be required to provide engineering calculations. A hydraulic analysis is required for bridge or culvert crossings and for channel modifications. The analysis must be provided using HEC-RAS or HECII. The use of this software may be waived for certain circumstances as solely determined by Valley Water.
- **Photo Documentation:** If granted a Valley Water encroachment permit, you must photograph the Valley Water right-of-way covered by such encroachment permit in a manner that fully documents such right-of-way prior to the commencement of any work. Photos should, at a minimum, show existing vegetation, fencing, and the ground surface condition in the area of the proposed work.
- **Imported Fill:** If Applicant proposes bringing fill or imported materials onto the Valley Water right-of-way, Applicant must ensure such fill and/or imported materials do not contain any hazardous materials and must certify this as such by completing an Import Borrow Certificate (WF75117).
- **Dewatering:** All dewatering or water diversion plans will be submitted for review and shall be approved by the agencies referred to above.
- **Biological Assessment:** A biological assessment and survey is required for work within sensitive habitat areas. Such biological assessments must be provided to the Valley Water.
- **Insurance:** A certificate of insurance and additional insured endorsement acceptable to Valley Water must be provided prior to issuance of a Valley Water encroachment permit. Valley Water, its directors, officers, agents, employees, and volunteers must be named as additional insureds in the general, automobile liability, and worker's compensation insurance policies. Valley Water and the other foregoing individuals must remain as additional insureds until the later of: (i) the expiration for the Valley Water encroachment permit; or (ii) the completion of all of Applicant's activities on the Valley Water right-of-way. Specific requirements are shown on the Insurance Requirements information sheet (WF75113).
- **As Builts:** As-built drawings will be required following completion of work for projects that modify Valley Water facilities, as solely determined by Valley Water. If requested by Valley Water, Applicant will provide Valley Water with electronic files of those drawings.

- **Review Time:** Review times will vary depending on the complexity of the project and available Valley Water staff resources. Fence cost sharing, adopt-a creek, and access permits will typically be processed within 2 weeks. Please allow at least 4 weeks for review of all other permit requests. If the application is incomplete, Valley Water staff, as it deems necessary, will notify the Applicant to obtain information Valley Water believes is necessary to process your application.

Plans must include the following:

- A site map of the parcel on which the proposed work will be located.
- The location of the proposed work or structures in reference to property lines.
- Complete and detailed dimensions of the proposed work, structures or facilities.
- A legend, north arrow, bar scale and drawing scale.
- Indicate, label and dimension existing and proposed Valley Water rights of way.
- Show existing and proposed utilities.
- Show existing topography and features adjacent to and within the area of proposed work. A separate permit for access to Valley Water property to perform survey work may be needed.
- Show plan, profile and cross sections as appropriate for the project and how the proposed work relates to Valley Water right of way.
- The benchmark used for the project. If an assumed benchmark is used, provide a tie and conversion to NGVD or NAVD.

General notes on plan set must include:

- Contractor must obtain a Valley Water encroachment permit prior to start of construction within Valley Water right of way and maintain a copy of the permit on the project site at all times.
- Notify Valley Water's inspector at least 2 days prior to beginning any work within Valley Water's right of way.
- Any damage to Valley Water's structures, equipment, materials, vegetation, and or property shall be replaced and or repaired in kind to the satisfaction of Valley Water.
- Underground Service Alert must be notified a minimum of 2 days prior to scheduled start of construction at 1-800-227-2600 or by calling "811."
- A listing of all relevant parties associated with the project, including names and contact information.

STANDARD RATE SCHEDULE

Santa Clara Valley Water District Water Resource Protection Ordinance requires that applications for an encroachment permit be accompanied by a filing fee in an amount established by the Board of Directors. **The filing fee for an encroachment permit shall be \$250.** Permit filing fees are non-refundable. Actual costs are based on billing rates for staff services. Payment may be in the form of cash, check, credit card, money order, or cashier's check.

Exceptions:

Fees are not required for:

- Preliminary assessments to determine if a permit is required.
- Adopt-a-Creek permits.
- Fence cost sharing permits.
- Temporary pedestrian access for environmental studies, sampling, surveying, and organized events.
- Activities covered by agreements with other agencies where there is already an exchange of benefits such as public access for recreational purposes allowed through joint use agreements.

Temporary Vehicular Access:

\$250 Inclusive of filing fee

Insurance requirements must be met and a deposit may be needed. Additional amounts will be assessed if follow up inspection is required.

Construction Permits for Temporary Uses:

\$250 Inclusive of filing fee

Temporary uses that involve construction include minor grading, construction support activities, exploratory borings, and monitoring wells. A summary of charges against the permit application in excess of 2 hours will be due and payable at the time of permit issuance. Reimbursement for staff costs for environmental review, inspection charge and key deposit will be assessed and due prior to issuance of a permit. Standard rates for the use of District property are shown below based on size of area used and duration of use. **Durations longer** than 1 year and use of property greater than 1000 sq ft will be subject to a license at fair market value.

- Duration up to 3 months—\$600
- Durations longer than 3 months up to 1 year—\$1000
- Monitoring wells on Valley Water property—\$1000 with \$100 annual renewal

Construction Permits for Permanent Uses:

\$1000 Inclusive of filing fee plus reimbursement of actual review costs.

Permanent uses include utilities, telecommunications, outfalls, bridges, and major modifications, including flood protection channel construction or construction affecting Valley Water pipelines. Land rights must be acquired in advance of construction for major encroachments on to Valley Water property. A summary of charges against the permit application along with a request for any additional deposit will be made as the deposit is used. All applicable amounts are due and must be paid in full at the time of permit issuance. Applicant will be charged for any additional staff time spent on the project during construction.

Environmental Review:

\$300 initial deposit plus actual costs associated with preparation of documents and County Recorder's filing fee.

Inspection:

\$125 per trip: A minimum of one inspection will be charged per permit. The number of trips for major construction is determined on a case-by-case basis.

Key Deposit:

\$50 (refundable)

Permit Extensions or Name Changes:

\$100

Permit Amendments:

\$100 Requests for changes or additions to permit purpose or conditions.

Appeals:

\$100

Land Rights Transfers:

\$2500 initial deposit plus actual costs Actual costs are based on billing rates for staff services. Estimates for other components are noted below, actual costs may be greater.

Appraisals: \$2500 to \$10,000.

Hazardous Substance Liability Assessment (HSLA): \$5000.

Title report, if required: \$450 to \$700 depending on complexity.

Escrow fees: \$450 depending on amount of transaction.

Title insurance, if required: actual cost.

Recording fees: actual cost, see County Recorder's Office fee schedule.

Licenses:

- Telecommunications—per rate schedule adopted May 25, 2010.
- Durations less than 1 year—see rates listed under Construction Permits for Temporary Uses.
- Durations longer than 1 year and use of property greater than 1000 sq ft will be subject to a license at fair market value.