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Deviation Procedures

Introduction

These procedures are authorized to preclude the need for amendments to the Order necessary for minor changes in the Project's routing or location. Minor changes or modifications in Project activities are often required by LADWP following start of construction. These deviations may potentially increase or decrease impacts to waters of the state. In such cases, a Deviation, as defined in Section I of the Order, may be requested by LADWP as set forth below:

Process Steps

Who may apply: LADWP or LADWP's designated representative or agent (hereinafter, "Permittee") for this Project.

How to apply: By letter or email to the 401 staff designated as the contact for this Project.

Deviation Request: The Permittee will request verification from the State Water Board staff that the Project change qualifies as a Deviation, as opposed to requiring an amendment to the Order. The request should:

1. Describe the Project change or modification:
 - a. Proposed activity description and purpose;
 - b. Why the proposed activity is considered minor in terms of impacts to waters of the state;
 - c. How the Project activity is currently addressed in the Order; and,
 - d. Why a Deviation is necessary for the Project.
2. Describe location (latitude/longitude coordinates), the date(s) it will occur, as well as associated impact information (i.e., temporary or permanent, federal or non-federal jurisdiction, water body name/type, estimated impact area, etc.) and minimization measures to be implemented.
3. Provide a map that includes the activity boundaries with photos of the site.
4. Provide verification of any mitigation needed according to the Order conditions.
5. Provide verification from LADWP (if requestor is not LADWP) that the proposed changes or modifications do not trigger the need for a subsequent or supplemental EIR. (Cal. Code Regs., tit. 14, §§ 15162 & 15163.)

Action by State Water Board on Request: State Water Board staff will make a determination on the Deviation request within 5 working days from receipt of a complete request and notify LADWP via email of the staff determination. Determination of whether or not a Deviation request is complete is at the discretion of State Water Board staff.

Post-Discharge Deviation Reporting:

1. Within 30 calendar days of completing the approved Deviation activity, LADWP will provide a post-discharge activity report that includes the following information:
 - a. Activity description and purpose;
 - b. Activity location, start date, and completion date;
 - c. Erosion control and pollution prevention measures applied;
 - d. Impacts to water body types if applicable;
 - e. Mitigation plan if applicable; and,
 - f. Map of activity location and boundaries; post-construction photos.

Action by Water Board on Post-Discharge Activity Report: State Water Board staff will review the post-discharge Deviation Report within 10 working days from receipt of a complete report. State Water Board staff will determine, in consultation with LADWP and other regulatory agencies, if applicable, whether additional mitigation will be required. If additional mitigation is required, State Water Board staff will inform LADWP within the 10-day review period. Determination of whether or not a post-discharge activity report is complete is at the discretion of State Water Board staff.

Annual Summary Deviation Report:

1. Until a Notice of Completion of Discharges Letter is issued, include in the Annual Project Report (see Construction Notification and Reporting attachment) a compilation of all Deviation activities through the reporting period with the following information:
 - a. Site name(s).
 - b. Date(s) of Deviation approval.
 - c. Location(s) of authorized activities.
 - d. Impact area(s) by water body type prior to activity (for fill/discharge or excavation/dredge: acres, linear feet, and cubic yards) as originally authorized in the Order.
 - e. Actual impact area(s) by water body type (for fill/discharge or excavation/dredge: acres, linear feet, and cubic yards) due to Deviation activity(ies).
 - f. The net change in impact area by water body type(s) (for fill/discharge or excavation/dredge: acres, linear feet, and cubic yards). An explanation will be required for any negative values.
 - g. Mitigation to be provided (approved mitigation ratio and amount).

Action by State Water Board on Annual Deviation Report: Following issuance of a Notice of Completion of Discharges Letter, the Executive Director of the State Water Board will amend the Order to reflect all approved Deviations and the amended Order will serve as a record of actual Project activities.