

DEPARTMENT OF TRANSPORTATION

DISTRICT 3

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*Serious drought.
Help save water!!!*

May 6, 2016

North Delta Water Agency
910 K Street, Suite 310
Sacramento, CA 95814

RE: Benefit Assessment invoice # 2366

Under Article XIII, Section 3, of the California Constitution, the California Department of Transportation (Department) is exempt from assessments on the land that it owns unless there is an express grant of authority from the Legislature making the Department's property subject to a particular assessment. In those rare situations where the Legislature has authorized a particular assessment, the determination of whether the assessment is actually owed or the amount that may be owed is made pursuant to the requirements and procedures found in Article XIII D of the Constitution.

Article XIII D, which was added to the Constitution after the voters passed Proposition 218 in 1996, sets forth procedural requirements for the levying of assessments, fees and charges on real property. The Article is commonly misread to be a grant of new authority to agencies to assess state-owned property. However, such a reading is misplaced; there is no such grant of new authority to assessing agencies. Section 1 of Article XIII D is clear and expressly states:

“Nothing in this article ... shall be construed to: (a) Provide any new authority to any agency to impose a tax, assessment, fee or charge.”

Therefore, before the Department can be made subject to the levying of a particular assessment, there must be express Legislative authority allowing for the assessment. If the Legislature has not granted such authority, the Department cannot be held liable for the assessment.

The Department requests that you identify the provision in law that authorizes the assessment for which you have billed the Department. In the event that the above-identified bill has been sent in error, we ask you take immediate action to remedy the error and that the Department be removed from your assessment rolls.

Thank you for your courtesy in this matter.
Sincerely,

LOUIS BIRD

Associate Right of Way Agent