



## **RESOLUTION NO. 2018-04**

### **A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH DELTA WATER AGENCY ESTABLISHING RULES FOR COLLECTION OF DELINQUENT ASSESSMENTS**

WHEREAS, the North Delta Water Agency (“Agency”) was created and operates pursuant to the North Delta Water Agency Act (“Agency Act”). (Chapter 283 of the Statutes of 1973, as amended). Section 115-4.2, subdivision (g) of the Agency Act authorizes the Agency to levy assessments for the purpose of paying the expenses and obligations of the Agency.

WHEREAS, on May 4, 2011, the Agency’s Board of Directors (“Agency Board”) adopted Resolution 2011-01, adopting a new assessment roll and maximum assessment rate (“Assessment”) pursuant to the procedures required by Section 115-5.20 of the Agency Act, Part 7 of Division 15 of the Water Code, and Section 4 of Article XIII D of the California Constitution. On October 1, 2011, the Sacramento Superior Court issued a judgment (“Validation Judgment”) ordering, adjudging, and decreeing that Resolution 2011-01 is valid, that the Assessment is valid, binding on, and enforceable against property within the Agency’s boundaries, and that the Assessment is valid against all persons or entities, whether public or private. (Judgment by Court Determining Validity of Assessment Adjustment, Sacramento Superior Court, Case No. 34-2011-00-00104088.)

WHEREAS, in all four Counties where the Agency extends, the Agency participates in the Teeter Plan pursuant to provisions of Sections 4701-4717 of the California Revenue and Taxation Code, Under the Teeter Plan, the accounts of participating local government entities are placed on the respective County's secured tax roll and are credited with 100% of their respective tax or assessment levies regardless of the landowner's actual payments and delinquencies, Under the Teeter plan the penalty and interest which would otherwise be payable to the Agency are instead payable to the County.

WHEREAS, certain parcels subject to the Assessment are not included on any of the four Counties’ secured tax rolls, leaving the Agency itself to conduct direct billing and handle collection matters for such parcels.



WHEREAS, Government Code Sections 53931-53932 state that all special benefit assessments in which the amount is apportioned among several parcels shall constitute a lien upon the parcels, and that the recording or filing of the assessment under the relevant assessment act constitutes notice to all persons, However, the only apparent recording and filing statute for the Agency (Water Code § 51341; Agency Act § 5.20) is inapplicable since the Agency does not need to file or record its assessments with the County. (Agency Act § 5.20.)

WHEREAS, the Agency wishes to update the collection procedures it adopted in Resolution No. 2012-01.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This Resolution supersedes Resolution No. 2012-01.
2. The following rules apply to all assessments directly billed to the landowner, whether public or private, by the Agency staff, and at County discretion may also be relied upon by Counties billing Agency landowners pursuant to the Teeter Plan.
  - a. Assessments are delinquent 60 days after the Agency sends the assessment invoice to the landowner.
  - b. Delinquent assessments shall be subject to a 10% penalty and 8% interest at the rate of 8 percent per annum from the date of delinquency.
  - c. For any assessment that is delinquent for more than 30 days, staff will send a Notice of Delinquency to the landowner. The Notice of Delinquency will state that the assessment is delinquent, a 10% penalty is owed, interest will accrue at the rate of 8% per year until payment is made, and identify the current amount owed including penalty and interest.
3. The following procedures apply to assessments directly billed to state and local agencies owning parcels subject to the Assessment.
  - a. If the landowner has not made payment in full within 60 days after mailing the Notice of Delinquency, Agency counsel shall file a claim for the total amount due with the Department of General Services' Government Claims Program.
  - b. Immediately after the claim is filed with the Government Claims Program, Agency counsel shall notify the landowner in writing of the claim and request immediate payment. The letter shall inform the landowner that if the landowner does not pay Agency assessments, and associated penalties and interest, within 45 days, the Agency will file a petition for writ of mandate against the landowner.



# NDWA

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*Chairman*

Steve Mello

*Vice-Chairman*

Jack Kuechler

*Div. 5 Director*

Vacant

*Director*

Topper van Loben Sels

*Director*

Ryan Mahoney

*Manager*

Melinda Terry

- c. If the landowner has not paid the total amount due within 45 days after the filing of a claim with the Government Claims Program, the Agency Board will decide at its next meeting whether to authorize Agency counsel to file a petition for writ of mandate against the landowner.
  - d. If the Agency Board authorizes the filing of a petition for writ of mandate, Agency counsel shall file such petition within 30 days of the Agency Board's decision.
  - e. This Resolution shall not be construed as requiring the Agency to file a claim against the state or a local agency before bringing a petition for writ of mandate to collect delinquent assessments and associated penalties and interest. The filing of a claim with the Government Claims Program is intended as a only as an alternative method of notification of past-due assessments to state and local agencies, and the California Government Claims Act does not require the filing of a claim as a prerequisite to bringing a petition for writ of mandate to recover delinquent assessments.
4. The following procedures apply to assessments directly billed to private landowners owning parcels subject to the Assessment.
    - a. If the landowner has not made payment in full within 60 days after mailing the Notice of Delinquency, Agency counsel shall send a demand letter to the landowner stating that the Agency will file a lien on the affected parcel(s) if payment is not received within 30 days. Agency counsel's letter shall also inform the landowner that the Agency Board will consider whether to sell the affected parcel(s) at a tax delinquency sale at its next meeting.
    - b. If the landowner has not made payment in full within 30 days of receiving the letter from Agency counsel discussed in section 4.a of this Resolution, staff shall record a lien against the affected parcel(s), and shall immediately notify the landowner of the recording of the lien in writing. The letter shall also provide notice to the landowner that the affected parcel(s) may be sold at a delinquency sale if payment in full is not received within 90 days.
    - c. If the landowner has not made payment in full within 90 days after the recording of a lien against the affected parcel(s), the Agency Board shall decide at its next meeting whether the affected parcel(s) should be sold at a delinquency sale.
    - d. If the Agency Board authorizes a delinquency sale to recover assessments levied on one or more parcels, the NDWA treasurer shall publish notice of the delinquency sale as provided in Water Code §§ 51600 *et seq.*, and shall, at least 30 days before sale, send by certified mail a notice of the delinquency sale to the owner of the property to be sold as shown on the records of the county assessors' offices which the assessors will use to prepare the next assessor's rolls.



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- e. At least 60 days prior to the expiration of the time for redemption, the NDWA treasurer shall send by certified mail notice of the expiration of the redemption period to the owner of the property as shown on the records of the county assessors' offices which the assessors will use to prepare the next assessor's rolls. A sale of unredeemed property shall be held in the manner prescribed in Chapter 5 (commencing with Section 51660) of Part 7 of Division 15 of the Water Code.

ADOPTED as a resolution of the Board of Directors of the North Delta Water Agency at a regular meeting duly held on the \_\_\_\_\_ day of June, 2018.

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Steve Mello, Chairman