

DEPARTMENT OF WATER RESOURCES

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SACRAMENTO, CA 94236-0001
(916) 653-5791



12/15/2021

Ms. Melinda Terry
General Manager
North Delta Water Agency
910 K Street, Suite 310
Sacramento, California 95814-3512

Dear Ms. Terry:

This letter notifies North Delta Water Agency (NDWA) that its annual payment obligation to the Department of Water Resources (DWR), adjusted for the five-year period 2022 through 2026, is \$765,292.77. The amount due for 2022 is \$584,637.33.

The determination of the annual payment obligation is in accordance with Article 10(b) of the January 28, 1981 Contract Between the State of California Department of Water Resources and the North Delta Water Agency for the Assurance of a Dependable Water Supply of Suitable Quality (Contract), as amended on January 21, 1997 (Amendment).

The mean of the State's latest projected Delta Water Rate for the five years is \$101.50 per acre-foot. The adjusted payment under Article 10(b) of the Contract using the mean of the State's latest projected Delta Water Rate for the five years is \$1,725,500.00, or $\left(\$170,000 \times \frac{\$101.50 \text{ per acre-foot}}{\$10 \text{ per acre-foot}} \right)$. This calculated adjusted payment of \$1,725,500.00 is 154.93 percent more than NDWA's previous Article 10(b) adjusted payment of \$651,313.00. Article 10(b) further states that no adjusted payment shall exceed the previous payment by more than 25 percent. As a result, the adjusted annual payment obligation to DWR beginning January 1, 2022 is \$814,141.25, or $(\$651,313.00 \times 1.25)$.

Article 6 of the Amendment specifies that NDWA may permanently reduce its annual payments due under Article 10 of the Contract by a percentage equal to the percentage of acreage of land owned by DWR within NDWA's jurisdiction compared to all lands within NDWA's jurisdiction. NDWA reported in its December 9, 2021 letter to DWR that the total land area within NDWA's jurisdiction is 288,000 acres. From 288,000 acres, DWR owns 17,289.2 acres. Therefore, NDWA's annual payment for 2022 through 2026 may be reduced by 6.00 percent, or $\left(\frac{17,289.2 \text{ acres}}{288,000 \text{ acres}} \times 100 \right)$. The credit DWR will apply to the Contract payment for lands owned by DWR is \$48,848.48, or $(\$814,141.25 \times 0.0600)$.

DWR notes that, historically, the approach to determining NDWA's gross acreage has been inconsistent, resulting in differing values from approximately 288,000 acres upwards to 301,906 acres. Given the past inconsistency, DWR believes that, moving forward, articulating a mutually agreed upon approach to determining the acreage for annual payments would be beneficial. DWR accepts the 288,000 acre value for 2022, but is of the position that clarity is needed in the Contract with regard to how acreage for annual payment purposes is determined.

Ms. Melinda Terry

12/15/2021

Page 2

A June 26, 2019 agreement between DWR and the California Department of Fish and Wildlife (DFW) allows for the reduction in NDWA's annual payment obligation equal to the charge against DFW for assessments levied upon lands DFW owns within the Agency. The DFW credit is determined annually and was determined to be \$180,655.44 for 2022.

In sum, NDWA's adjusted total annual payment for 2022 through 2026 is \$765,292.77, or (\$814,141.25 – \$48,848.48). NDWA's adjusted total payment for 2022 is \$584,637.33, or (\$765,292.77 – \$180,655.44). Per Article 10(a) of the Contract, NDWA shall make payments to DWR, one-half on or before January 1, and one-half on or before July 1 of each year. DWR will send an invoice shortly for the first installment payment of \$292,318.67.

The above determination of NDWA's annual payment obligation is in accordance with Article 10 of the Contract as amended on January 21, 1997. However, acting in good faith to meet its current obligations under the Contract does not alter or diminish DWR's intent to renegotiate Article 10 of the Contract pursuant to Article 9.

If you have any questions or need further information, please contact me at (916) 902-9876 or John.Leahigh@water.ca.gov, or Patrick Luzuriaga of my staff at (916) 820-7778 or Patrick.Luzuriaga@water.ca.gov.

Sincerely,



John Leahigh
Water Operations Executive Manager
Operations & Maintenance