

RECORDING NDWA WATER RIGHTS

What is the North Delta Water Agency contract?

The North Delta Water Agency (Agency) contract with the State of California assures that every water user within the Agency boundary, whether riparian or not, has the right to divert water of suitable quality for “reasonable and beneficial use.” That is the same standard for the right to use water under a confirmed riparian right, the most senior right available. A landowner within the Agency need not prove the existence of a riparian right, as the contract provides the equivalent of that right. This is the benefit for which the landowner pays the Agency assessment and for which the Agency pays the State. Those with appropriative rights are junior to riparian rights.

What is a North Delta Water Agency subcontract?

The rights of the water users within the Agency boundary for reliable water quantity and quality are effective and enforceable by the Agency without the need for subcontracts specifically involving individual water users within the Agency boundary. However, Article 18 of the contract permits the Agency to enter into subcontracts with water users within the Agency boundary, in which the assurances and obligations provided under the contract are also specifically assigned to property covered by the subcontract. The contract and subcontracts do not affect the underlying water rights of the property. The subcontract is a recorded document which reflects the existence of their contractual right for water quantity and quality from the State pursuant to their rights as a landowner within the Agency boundaries. Those contractual rights constitute an insurance policy assuring the water user that he or she has the right to make a reasonable and beneficial use of water from the Delta channels, the equivalent of a riparian right.

What is the benefit to a water user within the Agency of executing such a subcontract?

The advantage to a landowner of such a subcontract would be to provide a record in the landowners’ title that the lands described in the subcontract are the beneficiary of the contract between the Agency and the State, both for water supply and water quality. The Agency has the subcontract form available for anyone interested in entering into it and it requires only the definition of the description of the property and the notarized identification of the vested owner.

Instructions for recording a NDWA subcontract:

1. Download a copy of the NDWA subcontract from the Agency’s website at www.northdw.com or call (916) 446-0197 to request a subcontract to be mailed to you.
2. Fill in the date and name of property owner on the contract.
3. Prepare an Exhibit A as an attachment to the subcontract which describes the entire property that the subcontract will apply (this can either be a map or legal description of the property, but must include all of the parcel numbers for the total property to be included in the subcontract). If you own properties in more than one county in the Agency boundary then you are required to submit separate subcontracts for properties in each county.
4. Take the completed subcontract, including the attached Exhibit A, to a notary who can witness and verify your signature of the subcontract. *Be sure that notary’s stamp does not touch any wording of the subcontract, otherwise it will be rejected by the County.*
5. Mail the original notarized subcontract and Exhibit A to: North Delta Water Agency, 910 K St., Ste. 310, Sacramento, CA, 95814. The Agency will also sign and notarize the subcontract and arrange for the recordation of the subcontract in the appropriate county. The original of the recorded subcontract will be returned to the landowner, the Agency will maintain a copy, and the Agency will send a copy to the Department of Water Resources for their records.