

May 19, 2017

**VIA CERTIFIED MAIL AND EMAIL**

Charlton H. Bonham, Director  
California Department of Fish & Wildlife  
1416 9th Street, 12th Floor  
Sacramento, CA 95814  
Director@wildlife.ca.gov

Re: Invoice for Payment of North Delta Water Agency Assessments and Notice of Intent to Initiate Litigation if Payment Not Received by June 30, 2017

Dear Director Bonham:

This firm represents the North Delta Water Agency (“Agency” or “NDWA”). The Agency levies an assessment on lands within NDWA boundaries in proportion to the benefits they receive from the Agency’s continued operation, maintenance, enforcement, and administration of the Contract for the Assurance of a Dependable Water Supply of Suitable Quality (“1981 Contract”) between NDWA and the California Department of Water Resources (“DWR”). As consideration for DWR’s performance of the 1981 Contract, the Agency pays a fee to DWR that is adjusted every five years pursuant to Article 10(b) of the 1981 Contract. To pay this fee and fund the Agency’s costs associated with the 1981 Contract, the Agency levies an annual assessment against the lands within Agency boundaries.

According to NDWA’s assessment roll, the California Department of Fish & Wildlife (“CDFW”) owns 17,438.77 acres of land within the Agency’s boundaries. In accordance with the current NDWA fiscal year (“FY”) 2016-17 assessment rates, and the invoice attached hereto as **Attachment A**, the total amount due for all CDFW parcels is \$139,541.90.

In accordance with an agreement executed in 2008, DWR previously allowed NDWA to deduct the total annual assessment owed by CDFW from the annual 1981 Contract fee. That agreement, however, expired in 2011 upon the Agency’s adoption of an increased assessment in compliance with Article XIII D of the California Constitution (“Proposition 218”). According to a letter dated December 7, 2017 (attached hereto as **Attachment B**), DWR will no longer offset the Agency’s fee under the 1981 Contract to account for CDFW-owned lands. In the absence of such an offset, CDFW must pay the assessments levied by the Agency on CDFW-owned lands. *See* Cal. Const., Art. XIII D, § 4 (“Parcels within a district that are owned or used by any agency, the State of California . . . shall not be exempt from assessment . . .”).

Therefore, NDWA hereby demands that CDFW pay the Agency the entire annual \$139,541.90 assessment by June 30, 2017. If full payment is not received by this date then a 10% penalty will immediately apply plus an additional 8% interest annually.

In addition, we hereby give notice that the NDWA board of directors has authorized Downey Brand to initiate litigation against CDFW if the Agency does not receive payment of the foregoing amount by June 30, 2017. Please call if you have any questions.

Very truly yours,

DOWNEY BRAND LLP



Samuel Bivins

SB

cc: Wendy Bogdan

Attachment A

**NORTH DELTA WATER AGENCY**  
 910 K STREET, SUITE 310  
 SACRAMENTO CA 95814

<u>DATE</u>	<u>INVOICE NO.</u>
5/17/2017	2053

Department of Fish & Wildlife  
 1416 9th Street, 12th Floor  
 Sacramento CA 95814

**BENEFIT ASSESSMENT INVOICE**  
 2016-2017

Parcel Number	Address	Amount
Sacramento County Parcels		148.10
Solano County Parcels		6,228.02
Yolo County Parcels		133,165.78
Please see attached for individual parcel list		
Payment due by June 30, 2017 to avoid 10% penalty and 8% annual interest		
Please make checks payable to North Delta Water Agency.		<b>Total</b>
		<b>\$139,541.90</b>

**Department of Fish and Wildlife Parcel and Assessments**

County	SPI_AGENCY	APN_FEE	Acres 16-17	Assessment 16-17	Comment
Sacramento	DFW	146-0120-042	35.00	\$ 121.10	
Sacramento	DFW	157-0090-085	1.09	\$ 9.00	
Sacramento	DFW	157-0120-015	2.11	\$ 9.00	
Sacramento	DFW	157-0120-017	1.95	\$ 9.00	
Solano	DFW	042 150 100	2.00	\$ 9.00	
Solano	DFW	042 150 130	12.16	\$ 104.76	
Solano	DFW	042 150 170	136.5	\$ 472.30	
Solano	DFW	042 150 180	416.95	\$ 1,442.66	
Solano	DFW	042 160 190	182.64	\$ 631.94	
Solano	DFW	042 170 010	399.39	\$ 3,440.90	
Solano	DFW	042 240 280	36.55	\$ 126.46	
Yolo	DFW	033 012 14	16.59	\$ 142.94	
Yolo	DFW	033 012 21	50.93	\$ 438.78	
Yolo	DFW	033 120 02	85.50	\$ 736.62	
Yolo	DFW	033 120 03	100.00	\$ 861.54	State owned parcel within Yolo Bypass Wildlife Area, assumed owned by DFW
Yolo	DFW	033 120 07	641.80	\$ 5,529.36	
Yolo	DFW	033 120 21	29.70	\$ 175.72	
Yolo	DFW	033 120 27	50.95	\$ 438.96	
Yolo	DFW	033 120 34	660.28	\$ 3,906.62	
Yolo	DFW	033 120 35	471.25	\$ 4,060.02	
Yolo	DFW	033 120 36	448.90	\$ 3,241.34	
Yolo	DFW	033 120 37	349.70	\$ 2,069.04	
Yolo	DFW	033 120 38	119.09	\$ 704.62	State owned parcel within Yolo Bypass Wildlife Area, assumed owned by DFW
Yolo	DFW	033 120 39	70.61	\$ 417.78	
Yolo	DFW	033 140 31	18.02	\$ 155.26	
Yolo	DFW	033 140 43	37.47	\$ 322.82	
Yolo	DFW	033 140 44	370.68	\$ 3,193.56	
Yolo	DFW	033 140 45	333.86	\$ 2,876.34	
Yolo	DFW	033 140 46	316.81	\$ 2,729.44	
Yolo	DFW	033 140 47	127.60	\$ 1,099.34	

Yolo	DFW	033 140 48	38.76	\$	333.94
Yolo	DFW	033 140 57	429.01	\$	2,538.30
Yolo	DFW	033 140 59	489.55	\$	3,462.02
Yolo	DFW	033 140 63	44.04	\$	260.58
Yolo	DFW	033 150 17	0.47	\$	9.00
Yolo	DFW	033 150 54	316.45	\$	2,726.34
Yolo	DFW	033 160 01	506.98	\$	4,367.84
Yolo	DFW	033 160 03	113.91	\$	981.38
Yolo	DFW	033 160 05	658.70	\$	5,674.96
Yolo	DFW	033 160 06	584.56	\$	5,036.22
Yolo	DFW	033 160 12	405.28	\$	3,491.66
Yolo	DFW	033 160 14	324.45	\$	2,795.28
Yolo	DFW	033 160 21	30.35	\$	261.48
Yolo	DFW	033 160 23	15.77	\$	135.88
Yolo	DFW	033 160 25	569.55	\$	4,906.90
Yolo	DFW	033 160 26	37.57	\$	323.68
Yolo	DFW	033 160 28	1.36	\$	11.72
Yolo	DFW	033 160 29	11.47	\$	98.82
Yolo	DFW	033 160 30	18.31	\$	157.76
Yolo	DFW	033 160 31	18.32	\$	157.84
Yolo	DFW	033 170 01	188.19	\$	1,621.34
Yolo	DFW	033 170 09	246.40	\$	2,122.84
Yolo	DFW	033 170 10	379.40	\$	3,268.68
Yolo	DFW	033 170 11	640.70	\$	5,519.90
Yolo	DFW	033 170 13	634.92	\$	5,470.10
Yolo	DFW	033 170 27	29.51	\$	254.24
Yolo	DFW	033 180 10	93.19	\$	802.88
Yolo	DFW	033 180 18	30.84	\$	265.70
Yolo	DFW	033 180 22	617.84	\$	5,322.94
Yolo	DFW	033 180 24	603.84	\$	5,202.32
Yolo	DFW	033 180 27	12.52	\$	107.86
Yolo	DFW	033 190 05	642.80	\$	5,537.98
Yolo	DFW	033 300 11	297.39	\$	2,562.14
Yolo	DFW	033 300 33	57.93	\$	499.10

Yolo	DFW	033 300 35	200.00	\$	1,183.32
Yolo	DFW	033 560 02	221.07	\$	1,904.62
Yolo	DFW	033 560 03	372.00	\$	3,204.94
Yolo	DFW	033 560 04	519.31	\$	4,474.08
Yolo	DFW	033 560 05	318.82	\$	2,746.76
Yolo	DFW	033 560 06	635.23	\$	5,472.76
Yolo	DFW	033 560 09	299.27	\$	2,578.34
Yolo	DFW	033 640 20	5.00	\$	43.08
Yolo	DFW	033 640 21	160.00	\$	1,378.46
Yolo	DFW	042 260 07	91.66	\$	789.70
			<b>2016 - 17</b>		
<b>Totals</b>			17,438.77	\$	139,541.90

Attachment B



## DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836  
SACRAMENTO, CA 94236-0001  
(916) 653-5791

Rec.  
DEC 12 2016



DEC 07 2016

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 2017 through 2021, is \$617,836.

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 \$68.79 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 \$1,169,430 or  $(\$170,000 \times \$68.79 / \$10)$ . This calculated adjusted payment of \$1,169,430 is 124.44 percent more than NDWA's previous Article 10(b) adjusted payment of \$521,050. 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, 2017 is \$651,313 or  $(\$521,050 \times 1.25)$ .

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. The total land area within NDWA's jurisdiction is 287,860.99 acres; from that amount DWR owns 14,785.80 acres. NDWA's annual payment for 2017 through 2021 may be reduced by 5.14 percent or  $((14,785.80 / 287,860.99) \times 100)$ . The credit DWR will apply to the Contract payment for lands owned by DWR is \$33,477 or  $(\$651,313 \times 0.0514)$ .

A May 21, 2008 agreement between DWR, Department of Fish and Game (DFG) and NDWA temporarily allowed for reduction in NDWA's annual payment obligation to compensate for payments not received from DFG for assessments levied upon lands it owns within the agency. Under the agreement, this arrangement terminated when a new assessment was adopted by NDWA, which occurred in May of 2011. DWR is currently negotiating with DFG regarding terms of a new agreement replicating the 2008 agreement. Until this new agreement is in place there is no contract authority for DWR to credit NDWA for DFG owned lands within NDWA's jurisdiction.

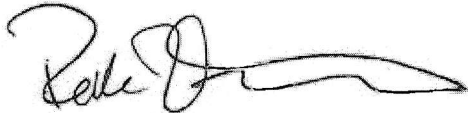
Ms. Melinda Terry, General Manager

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NDWA's adjusted total annual payment for 2017 through 2021 is \$617,836 or (\$651,313 – \$33,477). Per Article 10(a) of the 1981 Contract, NDWA shall make annual 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.

If you have any questions or need further information, please contact me at (916) 653-5117 or Bill Voss of my staff at (916) 653-8725.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pedro Villalobos', with a long horizontal flourish extending to the right.

Pedro Villalobos, Acting Chief  
State Water Project Analysis Office