

Attachment 2

Interim Procedures for Establishing, Managing and Disbursing DFG CESA Permit and Mitigation/Conservation Banking Agreement Land Management Endowments August 9, 2010

The Department of Fish and Game (DFG) will implement a pilot project to evaluate the use of the two options outlined in our June 2010 staff report (Attachment #1) - the Special Deposit Fund and the National Fish and Wildlife Foundation. The DFG has developed the following procedures for establishing, managing and disbursing endowment funds.

General Procedures for DFG-managed and NFWF-managed Endowment Options

The required endowment amount will be calculated by the project proponent using Property Analysis Record software or substantially equivalent evaluation tool. The project proponent must obtain the appropriate Capitalization Rate from DFG and use it as the basis for establishing the initial endowment amount. The Capitalization Rate (cap rate) will be calculated as follows:

Cap rate = Rate of Investment Return – Investment/Administrative Fees - Inflation Rate

DFG will post the cap rates for the state-held and NFWF held funds on its website. The cap rate will be adjusted annually by DFG and any previously stated cap rate will expire on December 31 each year. DFG will review and approve the endowment assumptions and calculations for each final endowment amount.

DFG will require for each CESA Permit or Banking Agreement at least three years of interim management funding be established in an interim management account at the same time the endowment is transmitted and fully funded.

DFG Managed - Special Deposit Fund Option

DFG is implementing some changes to the physical fund and investment strategy for endowments it manages through the state Treasury Special Deposit Fund. This fund is used by DFG to hold and manage endowments required under a DFG CESA permit or banking agreement. The purpose of these changes is to utilize funds and strategies that generate a yield that maximizes the cap rate under an investment risk scenario designed for perpetual fund principal preservation

In accordance with Fish and Game Code 13014(d) (enacted in 2009), the Treasurer's office will, at DFG's request, transfer endowment funds from the state's Pooled Money Investment Account to another account within the State

Treasury system to increase earnings over time within acceptable risk scenarios, while providing adequate liquidity.

To develop and maintain the investment strategy for these funds, the DFG has retained an investment adviser deemed acceptable to the Treasurer and the Department of Finance. The DFG is currently working with the Treasurer's office to identify an investment account appropriate for these long-term funds and anticipates the change to be completed in Fall of 2010.

Currently, transfer of the endowment funds to DFG will occur via instructions contained within a CESA Permit or Banking Agreement. The funds or wire transfer details will be transmitted to DFG via a Mitigation Payment Transmittal Form to the appropriate DFG Region Office.

Currently, invoices are submitted in arrears to the DFG Regional office for evaluation and comparison to the land management plan. Once the expenses are approved, the Region forwards the invoices to DFG's Administrative headquarters for payment scheduling and payment by the State Controller's Office. Currently, invoices are generally paid within 45 days of receipt.

The DFG is in the process of changing the invoicing procedures to provide even more timely payment via an online invoice approval and centralized invoice processing system reducing payment time to several weeks. Implementation of the new invoicing procedures is expected to occur by Fall of 2010.

National Fish and Wildlife Foundation Option

DFG and NFWF are in the process of finalizing a Master Mitigation Fund Agreement (Agreement) to specify the roles, responsibilities and terms for NFWF in managing funds for long-term management, interim management (short-term annual management until the endowment is established), enhancement, restoration, and as necessary, land acquisition.

While still preliminary, the agreement will specify the procedures for transferring funds to NFWF, disbursement of funds to land managers, fees NFWF will exact. Below is a summary of the proposed terms and procedures:

Endowment Management Fees:

- 1) Initial Deposit flat fee of \$3,000 – This fee will be for initial start up and establishment of the sub-account within the managed fund for DFG, segregated by project.
- 2) NFWF Administrative Fee – This fee will be fixed, at 1% per year charged against the balance of each account in the fund.

- 3) Investment Manager Fees – This fee will be imposed by the selected investment manager(s) and will be approximately 0.8-1.0% charged against the balance of each account in the fund.

Disbursement of Endowment Management Funds:

- 1) Endowment disbursements will occur on an annual basis on a predetermined date, in advance of the anticipated annual management.
- 2) Requests for other disbursements may be made via a web-based system with processing and payment occurring within a few weeks.
- 3) Land managers will submit management reports/invoices (already required as part of each CESA Permit or Agreement and established endowment) annually to NFWF.
- 4) NFWF will collect, review and summarize land management reports for DFG.
- 5) DFG retains the sole authority to stop or interrupt annual disbursements if management costs and activities reported do not comply with approved management plans and funding schedules.

Other Terms:

- 1) The DFG and NFWF will determine the appropriate investment strategy which will be designed to maximize yield within a portfolio designed to protect principal in perpetuity.
- 2) DFG, NFWF and the land manager will execute a Recipient Agreement that will outline:
 - a. When disbursements may occur and how,
 - b. Reporting due dates, and
 - c. Specify land manager will not be expected to carry out all annual land management activities if DFG and NFWF determine there is a fund shortfall. DFG will meet and confer with land manager to prioritize which land management activities will occur with available funds.

Flowchart:

The attached flowchart specifies the types of agreements or documents to govern and direct the endowment management transactions among DFG, project proponents, NFWF and land managers.