

About the protest procedure

What is the process used to provide input to the groundwater production charges?

The Santa Clara Valley Water District Act includes provisions relating to public notice and opportunity to be heard regarding establishment of groundwater production charges, including the opportunity to contest increases to such charges.

Proposition 218, adopted on November 6, 1996, added Articles XIII C and XIII D to the California Constitution which impose certain procedural and substantive requirements with respect to new or increased property-related fees and charges as described in the answers below.

This process is consistent with Proposition 218's requirements for establishing a property related fee for water services.

The Board of Directors believes it to be in the best interest of the community to align its practices with respect to the establishment of annual groundwater production charges under the District Act with the requirements for property-related fees for water services set out in Article XIII D section 6, including the majority protest procedure.

In Resolution 12-11, the Board of Directors adopted notice, hearing, and majority protest procedures that are consistent with Article XIII D section 6 of the California Constitution and with the Proposition 218 Omnibus Implementation Act codified at California Government Code section 53750 and following. To the extent that the requirements of Article XIII D section 6 supersede the requirements set forth in the District Act, the requirements of Article XIII D section 6 are intended to prevail.

Who is subject to the charge and how are they notified?

The Record Owners of existing water producing wells including water supply and extraction/environmental wells, whether currently active or not, are subject to this charge. Record Owners include all well owners and operators, in addition persons who own land upon which a well is situated. The parcel owners will be determined from the last equalized property tax roll and the water district's records. If the property tax roll indicates more than one owner, each owner will be sent the notice. Where well operators are directly liable to pay the charge to the water district, they will be provided with notice. Failure of any person to receive this notice will not invalidate the proceedings.

Are there restrictions on what the charges can cover?

Yes. The proposed charges must comply with the following substantive requirements: revenues derived from the charges will not be used for any purpose other than that for which the charge is imposed; revenues derived from the charges will not exceed the direct and indirect costs required to provide the service; the amount of the charges will not exceed the proportional cost of the services attributable to the property; no charge will be imposed for a service unless the service is actually used by, or immediately available to, the Record Owner; and no charge will be imposed for general governmental services where the service is available to the public at large in substantially the same manner as it is to Record Owners.

How can I, as a Record Owner of a well, protest a rate change?

- Written protests must be forwarded to the Santa Clara Valley Water District Clerk of the Board by mail or in person, sealed in an envelope which conceals the contents, with the return address and Assessor's Parcel Number (APN) or well identification number written on the outside of the envelope. To be counted, protests must be received no later than the conclusion of the public hearing scheduled for **April 24, 2018**.
- A protest must be signed under penalty of perjury. For parcels with more than one Record Owner, no more than one protest per category (property owner or well owner/operator/tenant) will be counted for any given parcel or well.
- To maintain the integrity of the process, only protests with original signatures will be accepted. Photocopied signatures will not be accepted. Protests will not be accepted via email. Protests must be submitted in sealed envelopes identifying the property on which the well is located, and include the legibly printed name of the signator. Protests not submitted as required will not be counted.
- Written protests will remain sealed until the tabulation of protests commences at the conclusion of the public hearing. A written protest may be submitted, or changed, or withdrawn by the person who submitted the protest prior to conclusion of the public testimony on the proposed charges at the public hearing.

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- Prior to the tabulation of the written protests, neither the protest nor the envelope in which it is submitted will be treated as a public record, pursuant to Government Code section 6254(c) and any other applicable law, in order to prevent potential unwarranted invasions of the submittee's privacy and to protect the integrity of the protest process.

How will the protests be tabulated?

- At the public hearings on **April 10, 12 and 24, 2018**, the Board of Directors will hear and consider all public testimony regarding the charge. Written protests will be accepted until the conclusion of the public hearing scheduled for **April 24, 2018**.
- At the conclusion of the hearing scheduled for **April 24, 2018**, the Clerk of the Board, or other neutral person designated to do the tabulation, will tabulate the protests from Record Owners, including those received during the public hearing.
- The Clerk of the Board will determine the validity of all protests. The Clerk will accept as valid all protests except those in the following categories:
 - A photocopy which does not contain an original signature;
 - An unsigned protest;
 - A protest without a legible printed name;
 - A protest which appears to be tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances;
 - A protest submitted to the water district via email;
 - A protest submitted in an envelope that does not have the property address or APN or well identification number written on the outside of the envelope; or
 - A protest signed by someone other than the Record Owner for the APN.
- The Clerk's decision, after consultation with the water district's Legal Counsel, that a protest is invalid is final.

- A Record Owner who has submitted a protest may withdraw the protest at any time up until the conclusion of the final public hearing on the charge.
- If it is not possible to tabulate the protests on the same day as the public hearing, or if additional time is necessary for public testimony, the Board of Directors may continue the public hearing to a later date to receive additional testimony, information or to finish tabulating the protests, or may close the public hearing and continue the item to a future meeting to finish tabulating the protests.
- If according to the final tabulation of the protests from Record Owners, the number of protests submitted against the proposed increase of the groundwater production charge within a groundwater production charge zone exceeds 50 percent of either: a) the identified number of parcels within the groundwater production charge zone, or b) the identified number of owners and operators within that groundwater production charge zone who are subject to the increased groundwater production charge, then a "majority protest" exists and the district Board of Directors will not impose any increase to the groundwater production charge within that groundwater production charge zone for that year.

Contact Us

For more information, contact:
Jose Villarreal (408) 630-2879 or
jvillarreal@valleywater.org
Anthony Mendiola (408) 630-2437 or
amendiola@valleywater.org

Visit our website at www.valleywater.org to use our **Access Valley Water** online customer service center.

