

About the protest procedure

Protest procedure-in-brief

Each year the Santa Clara Valley Water District Board of Directors considers whether or not to raise water charges, which help pay for the activities to protect and augment water supply in Santa Clara County. The Board utilizes a process that conforms to Article XIII D section 6 of the California Constitution, otherwise known as Proposition 218. That process includes notice to the public and an opportunity to protest proposed rate increases as required under Board Resolution 12-10. To submit a valid protest, you must:

- Deliver by mail or in person to the district in a sealed envelope to:

Clerk of the Board
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

- Sign with original signature
- Ensure envelope has an address or the APN or surface water account number to be properly identified
- Submit between **2/22/19** and **4/23/19**

Protests not submitted as required will not be counted. Protests are counted two ways, by parcel and by surface water owner or operator. If valid protests received exceed 50 percent of parcels on which a surface water use facility is present within a zone, or 50 percent of total owners/operators of surface water use facilities within a zone, then a majority protest exists, and the district Board may not increase the surface water charge that year. For situations where multiple parcel owners or surface water account operators exist, if any one owner/operator protests, then one full protest is counted for that parcel or account. For further information, refer to the following responses to frequently asked questions.

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

The Record Owners of existing surface water use facilities are subject to the surface water charge. Record Owners include the record owner of the property on which a surface water use-facility is present, and the tenant(s) who are water district surface water permittees liable for the payment of the surface water charge. Where surface use-facility 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.

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 surface water users are directly liable to pay the surface water 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, 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 or the Assessor's Parcel Number (APN) written on the outside of the envelope. To be counted, protests must be received no later than conclusion of the public hearing scheduled for **April 23, 2019**.
- 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 tenant who is surface water permittee) will be counted for any given parcel.
- 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 surface water use-facility 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.
- 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.

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How will the protests be tabulated?

- Written protests will be accepted until the conclusion of the public hearing scheduled for **April 23, 2019**. At the conclusion of the hearing, 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.
- Only written protests against the increase of surface water charges are to be counted to determine if a majority of owners of identified parcels do not desire the increase to be imposed.
- 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 the APN or surface water account 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 surface water charge within a charge zone exceeds 50 percent of either: a) the identified number of parcels within the charge zone, or b) the identified number of owners and operators within that charge zone who are subject to the increased surface water charge, then a "majority protest" exists and the district Board of Directors will not impose any increase to the surface water charge within that charge zone.

Contact Us

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

