

## SURFACE WATER CHARGES

# About the Protest Procedure



### Protest procedure-in-brief

Each year the Santa Clara Valley Water District (Valley Water) Board of Directors considers its water charges, and whether it is necessary to raise charges to 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, set forth in Board Resolution 12-10, includes notice of any proposed charge/rate increases to "Record Owners" and an opportunity to protest such proposed increases.

A "Record Owner," for purposes of protesting a proposed surface water charge increase, includes both the owner of record of the parcel of real property on which a surface water use facility is located and tenants that are directly-billed and liable to Valley Water surface water permittees. In the situation where a parcel of real property has more than one Record Owner, a maximum of only one protest per parcel will be counted.

If Valley Water receives a "majority protest" (i.e., valid protests received equals 50 percent plus one of either the total parcels on which a surface water use facility is present within a zone, or the total owners and tenants subject to the surface water charge within the zone), then the Valley Water Board may not increase the surface water charge in that zone. For further information, refer to the following responses to frequently asked questions.

#### A VALID PROTEST SHOULD:

- 1 Be signed with your original signature.
- 2 Be sealed in an envelope which conceals the contents.
- 3 Include the return address and the APN (Assessor's Parcel Number) or surface water account number written on the outside of the envelope.
- 4 Be submitted between February 26, 2021 and April 27, 2021.



### Frequently Asked Questions

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

"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 tenants who are Valley Water surface water permittees liable for the payment of the surface water charges. Where surface use-facility operators are directly liable to pay the charge to Valley Water, they will be provided with notice.

Parcel owners will be determined from the last equalized property tax roll and Valley Water'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 charged and liable to pay the surface water charge to the Valley Water, they will also be provided with notice.

#### 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.

## SURFACE WATER CHARGES

## About the Protest Procedure



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

- Forward your written protest to the Valley Water 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 the conclusion of the public hearing scheduled for April 27, 2021.
- A protest should be signed under penalty of perjury. For parcels with more than one Record Owner, no more than one protest per category (property owner or owner and tenant who is a surface water permittee) will be counted for any given parcel.
- Protests should 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 (person signing).
- 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, to prevent potential violations of the submittee's privacy and to protect the integrity of the protest process.

## How will the protests be tabulated?

Written protests will be accepted until the conclusion of the public hearing scheduled for April 27, 2021. At the conclusion of the hearing, the Clerk of the Board, or other neutral person designated by the Board to do the tabulation, will tabulate all valid protests received from Record Owners, including those received during the public hearing. Only written protests will be counted in determining whether a majority protest has been received.

The Clerk of the Board will determine the validity of all protests in accordance with Resolution 12-10. The Clerk's decision, after consultation with Valley Water's Legal Counsel, that a protest is invalid will be 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 Valley Water 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 protests to proposed increased charges are received from a majority of Record Owners in a designated zone (50 percent plus one of either the total parcels on which a surface water use facility is present within a zone, or the total owners and tenants subject to the surface water charge within the zone), Valley Water cannot impose the proposed increase.

## Contact Us

For more information contact:

**Albert Le**  
(408) 630-2860  
[albertle@valleywater.org](mailto:albertle@valleywater.org)

**Carmen Narayanan**  
(408) 630-3041  
[cnarayanan@valleywater.org](mailto:cnarayanan@valleywater.org)

Visit our website at [valleywater.org](http://valleywater.org) to use our **Access Valley Water** online customer service center.