



Board Agenda Item 6

DATE: December 17, 2024

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Public Works and Planning

SUBJECT: Public Protest Hearing on Water Service Fee Increases for Fresno County
Waterworks District 37 (Mile High)

RECOMMENDED ACTION(S):

Conduct public protest hearing and receive written protests from owners of property, including their tenants, currently (as of such public protest hearing) receiving water service, in Fresno County Waterworks District 37 (Mile High), prior to the close of such public protest hearing, as required under California Constitution Article XIII D, Section 6 (Proposition 218), on a proposal to increase the water service fees for such District, and upon completion of such public protest hearing, approve item A or B, as applicable, as determined by the Board of Supervisors (“Board”):

- A. If the Board finds that there is not a majority protest against such proposal to increase the water service fees, the Board may adopt a Resolution authorizing the proposed increases in the water service fees for Fresno County Waterworks District 37 (Mile High), effective January 1, 2025.**
- B. If the Board finds that there is a majority protest against such proposal to increase the water service fees, make the determination that there is such a majority protest and abandon proceedings regarding such proposal to increase the water service fees, and direct the Department of Public Works and Planning to hold a public meeting with the Fresno County Waterworks District 37 (Mile High) community announcing immediate cost saving steps.**

Fresno County Waterworks District 37 (Mile High) (“WWD 37”) currently provides water service to 41 of 46 residential parcels near Meadow Lakes and includes a portion of Bald Mountain Road near Auberry Road. Based on a five-year horizon, the proposed increased water service fees are recommended to:

- Fully fund WWD 37 operating costs;
- Upgrade the WWD 37 water system;
- Build a cash reserve of at least \$33,000 by the end of Fiscal Year 2028/29 (as required by your Board’s policy for special districts);
- Improve the financial condition of WWD 37; and
- Repay the County in FY2025/26 and FY 2026/27 for past costs incurred as of July 1, 2024 (\$17,400) but not yet charged to WWD 37, and for a projected budget shortfall of approximately \$20,500 for FY2024/25 (such shortfall to occur regardless of whether these service fees are increased under this Proposition 218 proceeding) (i.e., to repay a total of \$37,900), plus the County’s estimated annual internal interest rate on such unpaid costs and budget shortfall.

Due to deficit spending, WWD 37 has depleted its available cash reserves. The County has incurred but not charged WWD 37 for the foregoing \$17,400 and will essentially continue to advance the foregoing total

of \$37,900, plus interest, to WWD 37 until FY 2026/27, assuming the proposed increased rates are adopted. In addition, the WWD 37 water system needs corrosion control improvements (i.e., the upgrade, above) to provide safe and reliable drinking water.

The proposed increased water service fees are composed of two components:

- A base fee for all water users for the operation and maintenance (O&M) of the WWD 37 water system, including repayment to the County of the foregoing \$17,400 for a deficit as of July 1, 2024, in WWD 37 operations, and for a projected budget shortfall of approximately \$20,500 for FY2024/25, plus County's estimated annual internal interest rate on such unpaid costs and budget shortfall; and
- A two-tier usage fee to be charged to each 1,000 gallons of water usage (6,500 gallons is the proposed Tier 1 breakpoint), each such tier calculated and based upon estimated WWD 37 costs. The proposed rate structure will recover costs more fairly from customers than the current structure by redefining water usage rates.

Under the proposed rates, the average bill is expected to increase about \$55 or about 65% (from \$85.19 to \$140.39).

If at least 21 valid protests are received from owners of property or their tenants, who currently receive water service, by the close of the public protest hearing, then there will be a majority protest and the increased fee cannot be approved by your Board (i.e., a majority protest is based on 41 parcels currently (as of the Board's protest hearing) receiving water service / 2 = 20.5, rounded up to 21).

If there is a majority protest, there will be insufficient funds to meet the O&M of the WWD 37 water system and WWD 37 may be unable to pay for necessary repairs. This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

Staff have not identified any viable alternative. If your Board declines to conduct the public protest hearing as recommended, or if the public protest hearing is held but there is a majority protest by the owners of property, including their tenants currently (as of the Board's protest hearing) receiving water service in WWD 37 so that the necessary increased fee cannot be charged, then there would be insufficient funds to meet the O&M of the WWD 37 water system, and WWD 37 will be unable to pay for any necessary repairs or repay the County for past costs incurred as of July 1, 2024 (\$17,400) but not yet charged to WWD 37, and for a projected budget shortfall of approximately \$20,500, for FY2024/25, plus interest.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. All costs associated with WWD 37, including those associated with the public protest hearing, are paid for by the 41 parcels in WWD 37 which receive water service. All costs for the O&M of the water services shall be paid from the fees charged to these benefitting properties in WWD 37. Current revenues are not sufficient to cover the O&M costs of WWD 37, to repay the County for past costs incurred (\$17,400) but not yet charged to WWD 37, and for a projected budget shortfall of approximately \$20,500 for FY2024/25, plus interest.

If there were a majority protest by owners of property, including their tenants currently (as of the Board's protest hearing) receiving water service in WWD 37, so that the increased fee could not be charged, there would be insufficient funds to meet the O&M of the WWD 37 water system as well as to repay the County. Also, Department of Public Works and Planning (Department) staff would hold a public meeting with the WWD 37 community to discuss immediate cost saving steps and possible ramifications, which could include the inability to pay for repairs resulting in the shutdown of their water service or the potential for dissolution of WWD 37.

DISCUSSION:

1. History and location.

WWD 37 was established in 1961 to provide water service for the subdivision known as Mile High, near Meadow Lakes, and includes a portion of Bald Mountain Road near Auberry Road. WWD 37 contains 46 residential parcels and currently provides water service to 41 residential connections.

2. WWD 37's current rate structure.

WWD 37's current rate structure was adopted pursuant to Proposition 218 requirements on June 3, 2014, with fees having become effective on July 1, 2014. Fiscal Year 2018-19 was the last fee increase, due to inflation, associated with the Proposition 218 proceedings in 2014. The current rate structure consists of a base fee of \$85.19 per parcel, which includes the first 13,500 gallons of monthly water use. Use above the first 13,500 gallons is billed based on a two-tiered water rate structure charged to each 1,000 gallons of water use, calculated and based on cost.

The current rate structure has little differentiation in price between low and high use customers because a large portion of water use is included in the base fee. WWD 37 currently recovers over 95% of costs from the base fee.

3. WWD 37's proposed rate structure.

The proposal to increase WWD 37's water service fees is being made because WWD 37's current fee structure no longer generates sufficient revenue to meet WWD 37's expenses.

If there is no majority protest, and if adopted by your Board, the proposed rate structure will recover costs more fairly from customers than the current structure by redefining water usage rates.

The proposed rates are attached to this agenda item as Attachment A. Under the proposed rates, the average bill is expected to increase about \$55 or about 65% (from \$85.19 to \$140.39 per month). Assuming those average amounts, the base rate will be \$117.90 per month, and the usage will \$22.49 per month. Under the proposed rates, WWD 37 will recover approximately 84% of costs from the base fee.

The proposed rate increases will allow WWD 37 to:

- Fully fund WWD 37 operating costs;
- Upgrade the WWD 37 water system;
- Build a cash reserve of at least \$33,000 by the end of Fiscal Year 2028/29 (as required by your Board's policy for special districts);
- Improve the financial condition of WWD 37; and
- Repay the County in FY2025/26 and FY 2026/27 for past costs incurred as of July 1, 2024 (\$17,400) but not yet charged to WWD 37, and for a projected budget shortfall of approximately \$20,500 for FY2024/25 (such shortfall to occur regardless of whether these service fees are increased under this Proposition 218 proceeding) (i.e., a total of \$37,900), plus the County's estimated annual internal interest rate on such unpaid costs and budget shortfall. For financial planning purposes, the County's internal interest rate is estimated as 2.8% annually.

If the proposed rate increase goes into effect, then, in FY2025/26 and FY2026/27, WWD 37 is projected to repay the combined amount of \$37,900 (i.e., \$17,400 plus \$20,500) plus interest. This means that the County will essentially continue to advance the foregoing \$37,900, plus interest, to WWD 37 until FY 2026/27, assuming the proposed increased rates are adopted.

On November 7, 2006, the Board of Supervisors adopted a policy requiring special districts to maintain a reserve equal to 50% of a three year rolling average of annual operating costs. For WWD 37, the target is approximately \$30,000. The rate plan developed under the proposed increases in service fees includes the accumulation of about \$33,000 in reserves by the end of FY2028/29 which exceeds the County's target. Until such reserves reach their target in FY2028/29, WWD 37 remains non-compliant with this policy.

In recent years, WWD 37 has spent down its existing reserves and is not collecting sufficient revenue to fund annual expenses. In FY2024/25, WWD 37 expects to incur approximately \$54,100 in expenses to operate and maintain the water system; with current revenues of only \$50,500, this will result in a single fiscal year's deficit of \$3,600. In addition, WWD 37 expects to spend about \$15,000 this year to conduct the Proposition 218 rate study process for this item. All of these amounts do not take into account WWD's deficits and expected budget shortfall discussed in this item.

The current water fee was determined based on services, supplies, and labor costs at the time, but the costs of operating the WWD 37 water system have exceeded revenues due to rising cost of O&M, repairs to an aging system, and inflation. Consequently, cash reserves are completely depleted. Going forward, revenues need to be increased to not only meet expenses, but also to rebuild cash reserves within five years and repay the County.

The proposed increased water service fees will restructure the monthly water fee to include two components (i.e., a base fee and a tiered rate usage fee), that are designed to better align with current consumption patterns and actual costs to serve higher levels of water use, starting on January 1, 2025, assuming no majority protest, and your Board's approval of the higher rate proposed in this item:

- The first component is a base fee for all water users that will cover the costs of O&M and administration of the water system. It is proposed that the base fixed charge will no longer include a base amount of water consumption. The base fee was developed by analyzing the average O&M and administration costs over the past three years excluding the usage of water.
- The second component is a two-tier usage fee for the cost of providing the water, to be charged based on actual monthly water usage.
 - It is proposed that base expenses be recovered from a new Tier 1 water rate and certain extra expenses be recovered from a new Tier 2 water rate. Based on historical water usage patterns, average monthly use per single-family residential customer is 6,500 gallons. So, 6,500 gallons is the proposed Tier 1 breakpoint. Tier 1 is intended to recover costs associated with the first 6,500 gallons of consumption. Tier 2 is proposed to recover costs for peak usage above the first 6,500 gallons. For example, utilities and equipment maintenance expenses are incurred at higher cost due to peak usage; WWD 37 must run its pumps more frequently and at greater capacity due to high use, and the electricity to power the pumps at peak times is more expensive than at non-peak times.
 - Rate recommendations are designed to fund WWD 37's short- and long-term costs of providing service and fairly allocate costs to all customers. The proposed rates are based on the reasonable cost of providing service and do not exceed the proportional cost of the service attributable to the parcel.
 - The tiered rates are designed to better align with current consumption patterns and actual costs to serve each tiered level of water use so that the water service rates do not exceed the proportional cost of the service attributable to the parcel. Neither tier will subsidize the other tier.

4. Meeting with community.

On October 17, 2024, Department staff met with the WWD 37 property owners and customers (i.e., tenants) and discussed the possibility of initiating the Proposition 218 process to restructure and increase the monthly fee for the water service due to the deficiency in funds to operate and maintain the water system.

5. Notices to community; meeting with community.

On October 30, 2024, as required by California Constitution Article XIII D, Section 6 (Proposition 218), notification for the Protest Hearing (45-Day Notice) was mailed to recorded owners and tenants listed on the WWD 37 bill registers subject to the proposed increased water service fee. The 45-Day Notice explained the procedure for property owners and their tenants, **currently** (as of the Board's public protest hearing) **receiving WWD 37's water service**, timely submitting a written protest to the proposed increased fees, and explained how the adjustment in the base fee and changes to the usage fee for water will allow WWD 37 to build a cash reserve of at least \$33,000 by FY2028/29, as required by your Board, to repay the County in FY2025/26 and FY 2026/27 for past costs incurred as of July 1, 2024 (\$17,400) but not yet charged to WWD 37, and for a projected budget shortfall of approximately \$20,500 for FY2024/25 (such shortfall to occur regardless of whether these service fees are increased under this Proposition 218 proceeding) (i.e., a total of \$37,900), plus the County's estimated annual internal interest rate on such unpaid costs and budget shortfall, and to cover expenses caused by the operation of the water system.

The 45-Day Notice also explains that if less than a majority of such property owners or tenants currently (as of the Board's public protest hearing) receiving water service submit a written protest to the proposed increased fee, your Board may increase the fee effective January 1, 2025. The 45-Day Notice is attached to this agenda item as Attachment B.

On November 14, 2024, Department staff met with the WWD 37 property owners and residents at the Pineridge Elementary School to explain the proposed adjustment to the base fee and changes to the usage fee for the water service and to answer questions about the proposed increases in water service fees. Additionally, staff explained the Proposition 218 process and the ramifications of a majority protest.

6. Ramifications of majority protest.

If protests from a majority of owners of property and tenants in WWD 37, currently (as of the Board's public protest hearing) receiving water service, are not received before the close of the public protest hearing, your Board may approve the recommended fee increase. If so approved, the increased fees will become effective on January 1, 2025, and will be collected following the issuance of bills for the January-February 2025 billing period.

However, if at least 21 valid protests are received from owners of property or their tenants, currently (as of the Board's public protest hearing) receiving water service, by the close of the public protest hearing, then there will be a majority protest (i.e., a majority of 41 parcels currently (as of the Board's public protest hearing) receiving water service / 2 = 20.5, rounded up to 21) and the increased fee cannot be approved by your Board. If a majority protest occurs, Department staff will communicate with the WWD 37 community on reducing water services or the potential dissolution of WWD 37.

7. Municipal consultant.

The water rate study, dated October 25, 2024, was prepared by Lechowicz and Tseng, Municipal Consultants, Alameda, California. The water rate study was made available to property owners and customers as part of the 45-day notice, and it is on file with the Clerk of the Board of Supervisors.

REFERENCE MATERIAL:

BAI #16, June 3, 2014

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A - Site Map

Attachment A - Proposed Rates WWD 37

Attachment B - 45-Day Notice

On file with Clerk - Resolution

On file with Clerk - Water Rate Study

CAO ANALYST:

Salvador Espino