



Date: January 26, 2022

To: WHWD Board of Directors

From: Christa Manning, District Secretary

Subject: Results of Proposition 218 Protest Count

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**1. Total Parcels Eligible to Submit a Protest.** In October 2021, Stanislaus County provided WHWD with a list of all real property parcels within the boundaries of WHWD - the "last equalized secured property tax roll". (See Gov't. Code §53750). From the comprehensive property list, all parcels immediately capable of receiving WHWD water service (parcels which have existing service connections or meters) were identified and placed onto a separate list<sup>1</sup>.

This revised list became the basis of identifying all eligible parcels for purposes of WHWD's Proposition 218 water rate increase. There are 621 total eligible parcels for purposes of: a) receiving notice of the proposed water rate increase; b) able to submit a protest to the proposed water rate increase; and c) determining whether a majority protest exists.

**2. Mailing of Notices.** On November 26, 2021, all owners of record for eligible parcels were mailed notices of the proposed rate increase in accordance with the information provided by Stanislaus County. (See Gov't. Code §53750(j): "Record owner" means the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll...")

**3. Valid and Invalid Protests.** Ron Demmers, Ashley Wilkins and Christa Manning tracked and reviewed protests for determining whether a purported protest was valid and for purposes of determining whether a majority of valid protests were received by

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<sup>1</sup> Per WHWD Counsel, Cal. Const. Art. XIII D, Sec. 6 requires an agency to identify "the parcels upon which a fee or charge is proposed for imposition." Whether a parcel falls into this category turns on whether the fee or charge can actually be imposed, e.g., "unless that service [water] is actually used by, or immediately available to, the owner of the property in question." (Art. XIII D, Sec. 6(b)(4)) Caselaw interpreting the "immediately available" requirement holds that if a parcel in question has "the necessary service connections" then the parcel may be identified as being subject to the fee or charge, and is entitled to receive notice and may file a protest. (See *Paland v. Brooktrails Township CSD* (2009) 179 Cal. App. 4th 1358, 1370.)

WHWD. All protests received by WHWD were kept in a WHWD lockbox except during those times they were being reviewed and counted.

Of the **621** Proposition 218 notices which were mailed:

- a. WHWD received a total of **428** potentially valid protests.
- b. **46** potential protests were rejected due to invalidity, i.e., they were not signed by the property owner, failed to properly identify the parcel in question, were cast for the same parcel or failed to provide proof of parcel ownership where it differed from the information provided by Stanislaus County.
- c. **90** potential protests (submitted by a single property owner) were ineligible because they were submitted for parcels which were not identified by WHWD as being immediately capable of receiving water service from WHWD, i.e., there are no existing service connections or meters and therefore not considered eligible parcels. This is consistent with all parcels in WHWD which do not have an existing service connection or meter.
- d. Out of the total **428** potentially valid protests, WHWD only received **292** valid Proposition 218 protests for eligible parcels.

4. **Conclusion.** In order to put forth a majority protest, **311** or more valid protests for eligible parcels (51% of 621 total eligible parcels) must have been received by WHWD. Because only **292** valid protests were submitted by eligible parcels, there was no majority protest for purposes of Proposition 218.