Resolution 2026-08

A Resolution of the Board of Directors of the Pajaro Valley Water Management Agency

Amending Procedures for Public Hearing, Notice, and Protest Concerning Proposed Revisions to Augmentation Charge and Delivered Water Charge

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WHEREAS, Pajaro Valley Water Management Agency ("Agency") proposes to revise and increase the Agency augmentation charge and delivered water charge. The Agency has prepared the 2026 Cost of Service Rate Study ("Rate Study") to evaluate, explain, and substantiate the Agency's revenue needs and proposed new augmentation and delivered water charges. The Rate Study determines and calculates the proposed revised charges and explains the basis and reasons for increasing the charges; and

WHEREAS, California Constitution Article XIII C (amended by Proposition 26) and Article XIII D (added by Proposition 218) regulate local agency taxes, fees, and charges. Proposition 218 ("Article XIIID, Section 6" or "Section 6") imposes procedural and substantive limitations and requirements on property-related service charges. Proposition 26 imposes substantive limitations and requirements on other fees and charges. The Agency delivered water charge is a property-related service charge subject to Proposition 218. However, since the delivered water charge is a charge for water service, it is exempt from the Proposition 218 voter approval requirement; and

WHEREAS, in 2017, the California Supreme Court ruled in *City of San Buenaventura v. United Water Conservation District* that groundwater pumping charges (such as the Agency augmentation charge) are not property-related fees subject to Proposition 218. Therefore, the augmentation charge is subject to Proposition 26 and other requirements of state law; and

WHEREAS, some of the notice, hearing, and majority protest procedures and requirements in Propositions 26 and 218 and other applicable laws are unclear and lacking in detail. Pajaro Valley Water Management Agency Act ("Agency Act") section 1002 requires a notice and hearing in connection with the adoption or increase of the augmentation charge, but the Agency Act does not specify the notice and hearing procedures; and

WHEREAS, Agency Act sections 410 and 501-502 authorize the Agency Board of Directors ("Board") to adopt a resolution establishing procedures to implement and supplement the notice, hearing, and proceedings for the augmentation charge and delivered water charge increases pursuant to the Agency Act and Propositions 26 and 218; and

WHEREAS, on February 17, 2021, the Board of Directors adopted Resolution No. 2001-05 – Adopting Procedures for Public Hearing, Notice, and Protest Concerning Proposed Revisions to Augmentation Charge and Delivered Water Charge; and

WHEREAS, the Board desires to adopt this resolution to implement subsequent changes to state law including SB 323 (Caballero) (Cal. Govt. Code § 53759, et seq.) and AB 2257 (Wilson) Cal. Govt. Code § 53759.1, et seq.) concerning any potential judicial action or proceeding to attack, review, set aside, void, validate, or annul an ordinance adopting or amending the Agency's augmentation charge and delivered water charge rates.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Pajaro Valley Water Management Agency that the Procedures for Public Hearing, Notice and, for the Delivered Water Charge Only, Protest Concerning Proposed Revisions to Augmentation Charge and Delivered Water Charge established by Resolution No. 2021-05 are hereby amended to read as follows:

1. General. The Board adopts these notice, hearing, and protest procedures to govern the Agency proceedings for the consideration and approval of the revised augmentation charge and delivered water charge. In adopting this resolution, the Board intends to adopt procedures that are consistent with and fairly implement the Agency Act and Section 6 as applied to the unique circumstances of the augmentation charge and delivered water charge. It is not the intention of the Board to vary in any way from the requirements of the California Constitution, Agency Act, or any other federal or state law. If there is any inconsistency between a provision of this resolution and a requirement of federal or state law, the federal or state law shall govern.

2. Notice, Hearing, and (for the Delivered Water Charge) Protest Procedures. These notice, hearing, and (for the delivered water charge) protest procedures are adopted for the purposes of assuring compliance with the requirements of the Agency Act and Section 6 as applied to the proposed revision of the augmentation charge and delivered water charge. This resolution provides notice to interested persons as to the procedures the Board intends to follow with respect to the public hearing notice, mailing and distribution of the public hearing notices, filing of written protests, conduct of the public hearing, and the counting of written protests following the close of the public hearing to determine whether or not there is a majority protest.

(a) Identify Parcels Subject to Delivered Water Charge. Section 6, subsection (a)(1) requires the Agency to identify the "parcels upon which a fee or charge is proposed for imposition" (the "Identified Parcels"). (See also Government Code section 53750(g), "Identified parcel" means a "parcel of real property upon which a proposed property-related fee or charge is proposed to be imposed.") This requirement applies to the delivered water charge. The revised delivered water charge will be levied against property owners of parcels that receive or may receive water service through the Agency Coastal Distribution System as described in the Report.

Therefore, the "parcels upon which" the delivered water charge "is proposed for imposition" shall be the parcels that are located within the Coastal Distribution System water service area as determined by the General Manager.

(b) Recipients of Delivered Water Charge Public Hearing Notice.

(1) Section 6, subsection (a)(1) provides that the Agency "shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition." Government Code section 53750(i) defines "notice by

mail" to mean "any notice required by Article XIII C or XIII D of the California Constitution that is accomplished through a mailing, postage prepaid, deposited in the United States Postal Service and is deemed given when so deposited." Government Code section 53750(j) defines "record owner" to mean "the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the State of California, or the United States, means the representative of that public entity at the address of that entity known to the agency."

(2) Therefore, the public hearing notice for the delivered water charge shall be provided through a mailing, postage prepaid, deposited in the United States Postal Service to the owner of the Identified Parcels (determined and identified pursuant to paragraph 2(a)) whose name and address appears on the last equalized secured county property tax assessment roll (the "Assessment Roll") or, in the case of a government owned parcel, to the representative of that government agency at the address of that entity known to the Agency. For groundwater extraction facilities owned by a city or special district, the notice shall be mailed to the city council or governing board of the city or district.

(3) California Constitution article XIII D, section 2(g) defines "property ownership" to "include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question," which raises the question of whether tenants are entitled to receive the public hearing notice. With respect to the delivered water charge involving a parcel with a tenant/farmer, the Agency typically enters into a service agreement with the property owner receiving the service and then coordinates with the tenant concerning water delivery, billing, and payment. In tenant situations, the delivered water charge bill may be, and often is, paid by the tenant (even though the owner remains primarily liable). The Agency intends to continue this practice with the revised delivered water charge ordinance. Therefore, delivered water service tenants may be directly liable to pay the delivered water charge. Accordingly, in addition to mailing the public hearing notice to the record owner of each Identified Parcel, the Agency shall mail the notice to any tenant/customer address to which the Agency customarily mails the delivered water charge billing statement as shown on the Agency billing records.

(c) Notice of Public Hearing for Augmentation Charge. Under the Agency Act, any action to adopt or increase the augmentation charge must be approved by an ordinance adopted by the Agency Board "after notice and hearings." (Agency Act sections 1001-1002.) While the Act requires "notice and hearings," it does not specify any procedures or details concerning the process to notice and conduct the hearing. In the absence of another statute setting forth the augmentation charge hearing procedure, the Agency shall follow the same procedure for the notice and hearing requirements to apply to the augmentation charge as the notice and hearing requirements for the delivered water charge set forth in Paragraph 2(a) and (b)(1)-(3).

(d) Contents of Public Hearing Notice. There will be two separate public hearing notices, one for the augmentation charge and one for the delivered water charge. Each notice shall contain all of the following information:

(1) A reference to the Report and information about where the Report may be reviewed and obtained.

(2) The date, time, and place of a public hearing (the "Public Hearing") before the Board at which the Board will consider the Report, receive and consider public comments and protests, and consider adopting ordinances to approve the revised augmentation charge and revised delivered water charge. There will be two separate Public Hearings, but they will be scheduled for and conducted at the same Board meeting.

(3) The amount of the proposed augmentation charge or delivered water charge rates consistent with the final Report and the proposed ordinances increasing the charges, with the rates presented so as to allow the property owner to determine the expected or estimated amount chargeable to the owner's particular property.

(i) The augmentation charge will be levied based on the actual or estimated quantity of groundwater extracted from the extraction facility. There are both metered and unmetered extraction facilities in the Agency. For the metered extraction facilities, the augmentation charge amount will be based on the extraction facility's actual groundwater extraction amount as measured by the meter. For the unmetered extraction facilities, the augmentation charge amount will be based on the estimate of the extraction facility's groundwater extraction amount as determined by the Agency in accordance with the Report.

(ii) The delivered water charge will be a variable charge based on the actual quantity of water delivered to the Identified Parcel.

(4) An explanation of the basis upon which the augmentation charge or delivered water charge rates were calculated.

(5) An explanation of the reasons for the revised augmentation charge or delivered water charge.

(6) The following admonition regarding legal challenges to the proposed charges being considered for adoption:

"**Important Legal Information & 120-Day Statute of Limitations**

Under California Government Code Section 53759, any judicial action or proceeding to attack, review, set aside, void, or annul any ordinance adopting new, increased, or extended augmentation charges or delivered water charges must be commenced within 120 days of the effective date or the date of final passage, adoption, or approval of the fee, whichever is later. Furthermore, please be advised that to bring a legal challenge, parties must have first submitted a timely written objection during the Proposition 218/26 process.

AB 2257 Administrative Exhaustion Requirements

California Assembly Bill 2257 (Government Code Sections 53759.1 and 53759.2) establishes an optional administrative remedy. To preserve your rights to bring a judicial challenge regarding the legality of these proposed rates, you must adhere to the following:

- Written Objection Deadline: Any person or entity desiring to challenge the updated fees in court must submit a separate, timely written objection to the Agency no later than September 1, 2026.
- Specificity Required: The written objection must specify the grounds for alleging that the proposed rates do not comply with Proposition 218 for the Delivered Water Charge, and Proposition 26 for the Augmentation Charge.
- Agency Response: The Agency will evaluate all timely written objections and prepare a written response prior to the close of the public hearing.

Additional Information and Document Availability

The complete Cost of Service Study, supporting data, and this Notice are posted on the Agency website at https://www.pvwater.org. Copies are also available for public review at the Agency office."

(7) Such other appropriate information as determined by the General Manager.

(e) Mailing of Augmentation Charge and Delivered Water Charge Public Hearing Notice. The General Manager or his or her designee shall mail the augmentation charge and delivered water charge public hearing notice to the delivered water charge recipients (in accordance with paragraph 2(b)) at least 45 days prior to the Public Hearing date. A notice also shall be mailed to any interested party who has filed a written request with the Agency for mailed notice of Board hearings on new or increased fees and charges. The General Manager or his or her designee may certify the proper mailing of the notices by a declaration, which shall constitute conclusive proof of mailing in the absence of fraud. Failure of any person to receive notice shall not invalidate the proceedings.

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(f) Filing a Written Protest Against Delivered Water Charge Only. Section 6, subsection (a)(2) provides that: "At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge." The following rules shall govern the process of evaluating and accepting written protests against the proposal to increase the delivered water charge:

(1) The Assessment Roll shall be presumptive evidence of ownership of an Identified Parcel for written protest purposes. If a person asserts that it is the owner of an Identified Parcel but is not shown as the owner on the Assessment Roll, then such person may seek to establish eligibility to file a written protest for such parcel by filing with the General Manager evidence of ownership. If the submitted evidence of ownership is satisfactory to the General Manager, then the protest shall be accepted. Any such evidence must be received by the General Manager prior to the close of the Public Hearing.

(2) When an Identified Parcel is held by a partnership, as community property, in joint tenancy, as a tenancy in common, or by a trust, any partner, spouse, joint tenant, tenant in common, or trustee, as the case may be, may file a written protest for such parcel.

(3) An executor, administrator, or guardian may file a written protest for an Identified Parcel on behalf of the estate it represents. If such representative is not shown as the owner on the Assessment Roll, then the representative must file written documentation satisfactory to the General Manager establishing the legal representation. Any such documentation must be filed with the General Manager prior to the close of the Public Hearing.

(4) When an Identified Parcel is held by a corporation, company, unincorporated association, or local government agency, a written protest may be filed by resolution of the board of directors or other governing board, by the chief executive officer of the entity, or by any other person authorized in writing by the board of directors or other governing board to take such actions. If the protest is filed by a person other than the chief executive officer on behalf of the entity, then the corporation, unincorporated association or local government agency must file written authorization satisfactory to the General Manager. Any such written authorization must be filed with the General Manager prior to the close of the Public Hearing.

(5) Government Code section 53755(b) states that "[o]ne written protest per parcel, *filed by an owner or tenant of the parcel*, shall be counted in calculating a majority protest to a proposed new or increased fee or charge subject to the requirements of Section 6 of Article XIII D of the California Constitution." Based on section 53755(b), the Agency shall accept a written protest filed by an owner or a tenant of an Identified Parcel provided, however, that if a tenant desires to protest, then (i) the tenant must file with the General Manager a copy of the lease or rental agreement for the Identified Parcel or other written documentation satisfactory to the General Counsel establishing the tenancy (any such documentation must be filed with the General Manager prior to the close of the Public Hearing), or (ii) the tenant must be listed as a tenant/customer on the Agency delivered water charge billing records. If the tenant is other than a natural person, then the rules in subparagraphs (g)(1) to (g)(4) shall apply to determine the authority of a person to act on behalf of the tenant.

(6) Each written protest must identify the Identified Parcel covered by the protest and bear the original signature of the property owner or tenant or authorized representative (as provided above in subparagraphs (g)(1) to (g)(5)). A written protest may be mailed or sent by other courier or delivery service to the General Manager (Pajaro Valley Water Management Agency, 36 Brennan Street, Watsonville, CA 95076), hand-delivered to the same address, or hand-delivered at the Public Hearing. A protest delivered via e-mail will not be counted as a written protest for purposes of determining whether a majority protest exists.

(7) No written protest received by the Agency after the close of the Public Hearing shall be counted in determining the existence of a majority protest.

(8) A written protest may be withdrawn in writing at any time prior the close of the Public Hearing by the person who submitted the written protest.

(9) All written protests received by the Agency and not withdrawn prior to the close of the Public Hearing shall be considered public records for at least two years following the Public Hearing date.

(10) A written protest respecting multiple Identified Parcels that are combined into a single instrument shall be accepted and all Identified Parcels listed in the combined protest shall be counted if the combined protest otherwise satisfies the requirements of this subparagraph (g).

(g) Counting of Written Protests and Determining Majority Protest

(1) Written protests against the proposal to increase the delivered water charge shall be reviewed and tabulated by the General Manager or his or her designee. The review and tabulation shall be in an open and public setting. Any interested member of the public may observe the tabulation process.

(2) The Agency will not count a protest that (i) does not clearly identify the protestant's Identified Parcel, (ii) is not signed by the property owner, tenant, or authorized representative, (iii) is not from a property owner or tenant of an Identified Parcel, or (iv) does not clearly indicate a protest against or objection to the proposed charge. The cause of the rejection shall be written on the face of the protest.

(3) For purposes of determining whether a majority protest exists, only one protest per Identified Parcel will be counted. (Government Code section 53755(b).) In order to be counted in determining whether a majority protest exists, a protest must be a proper written protest timely received by the Agency in accordance with subparagraph (g).

(4) A written protest from any person having an ownership or tenancy interest or representing a person having such an interest in an Identified Parcel will result in having that Identified Parcel counted as an Identified Parcel with a written protest, irrespective of the possibility that one or more other persons having an ownership or tenancy interest or representing a person having such an interest in the same Identified Parcel do not join in the written protest.

(5) In calculating the majority protest, the numerator shall be the number of proper timely written protests and the denominator shall be the total number of Identified Parcels (determined pursuant to subparagraph (a)). If the calculated percentage is greater than 50%, then there shall be a majority protest. If the calculated percentage is 50% or less, then there shall not be a majority protest.

(h) Conduct of the Public Hearing

(1) At the time, date, and place fixed for the Public Hearings, the Board shall hear staff presentations pertaining to the Report and proposed ordinances, hear all persons interested in the matter or any aspect of the Report or proposed ordinances, and receive public comments and (for the delivered water charge) written protests regarding the Report and proposed ordinances. A Public Hearing may be continued from time to time as determined by the Board of Directors. If it is not possible to tabulate all of the protests on the day of the Public Hearing, then the Public Hearing may be closed but action on the delivered water charge increase ordinance may be continued until after finishing tabulation of the protests.

(2) If the Board determines after the close of the Public Hearing on the delivered water charge that written protests against the charge have been presented, and not withdrawn, by owners, tenants, or authorized representatives of a majority of the Identified Parcels (i.e., there is a majority protest as determined pursuant to paragraph (h)), the delivered water charge increase ordinance shall not be adopted and the revised charges will not be imposed.

(3) If the Board determines after the close of the Public Hearing on the delivered water charge that there is not a majority protest against the charge, the Board may (i) approve the Report as originally filed or as amended (provided that any such amendment shall not result in an increase in the charge above the amount shown in the public hearing notice), and (ii) adopt the ordinance increasing the delivered water charge.

(4) At the close of the Public Hearing on the augmentation charge, the Board may (i) approve the Report as originally filed or as amended (provided that any such amendment shall not result in an increase in the charge above the amount shown in the public hearing notice), and (ii) adopt the ordinance increasing the augmentation charge.

3. Effective Date of Resolution; Amendment. This resolution shall take effect immediately upon its adoption. These procedures may be amended from time to time by subsequent resolution of the Board.

4. Supersedes 2021 Resolution. This resolution supersedes Agency Resolution No. 2021-05.

PASSED AND ADOPTED by the Board of Directors of the Pajaro Valley Water Management Agency on the **17th** day of **June, 2026,** by the following vote:

AYES: Rider, Miller, Culbertson, Newell, Broz, Bannister, Hernandez
NOES: None
ABSENT: None
ABSTAIN: None

Stephen Rider
Stephen Rider (Jun 22, 2026 15:49:39 PDT)

Stephen Rider, Chair

Attest:

Secretary of the Board

Stephen Rider
E-signed 2026-06-22 03:49PM PDT
rider@pvwater.org

Corin Hammond
E-signed 2026-06-18 01:53PM PDT
chammond@pvwater.org
Pajaro Valley Water Management Agency

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Final Audit Report 2026-06-22

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