

**RESOLUTION NO. 2274**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE MONTECITO WATER DISTRICT  
ADOPTING GUIDELINES FOR THE SUBMISSION AND TABULATION OF  
PROTESTS IN CONNECTION WITH RATE HEARINGS CONDUCTED PURSUANT  
TO ARTICLE XIII D, SECTION 6 OF THE CALIFORNIA CONSTITUTION**

**WHEREAS**, Article XIII D, Section 6 of the California Constitution requires the Board of Directors of the Montecito Water District (“District”) to consider written protests to proposed increases to water rates; and

**WHEREAS**, this constitutional provision does not offer specific guidance as to who is allowed to submit protests, how written protests are to be submitted, or how the District is to tabulate the protests.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Montecito Water District that when notice of a public hearing with respect to the adoption and/or increase of water rates has been given by the District pursuant to Article XIII D, Section 6(a) of the California Constitution, the following shall apply:

**SECTION 1: Definitions.** Unless the context plainly indicates another meaning was intended, the following definitions shall apply in construction of these guidelines.

- A. “Parcel” and “Parcels” means a County Assessor parcel, and/or parcels, the owner or occupant of which is subject to the proposed water rates that is the subject of the hearing.
- B. “Customer of Record” means (i) the person or persons whose name or names appear on the District’s records as the person who has contracted for, or is obligated to pay for, water service for a particular District account or (ii) another person who demonstrates to the reasonable satisfaction of the District that they are a tenant of a Parcel directly liable to pay the proposed water rates.
- C. “Owner of Record” means the person or persons whose name and address appears on the latest 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 District.

**SECTION 2: Notice Delivery.** Notice of proposed water rates and public hearing shall be as follows:

- A. The District shall give notice of proposed water rate(s) and scheduled public hearing via U.S. mail to all Customers of Record served by the District. The District shall post the notice of proposed water rate(s) and public hearing at its official posting sites.

**SECTION 3: Protest Submittal.**

Any Customer of Record and/or Owner of Record who is subject to the proposed water rate(s) that is the subject of the public hearing may submit a written protest to the District, by:

- Delivery to the District's office at 583 San Ysidro Rd., Montecito, CA during published business hours
  - Mail to the District at 583 San Ysidro Rd., Montecito, CA 93108
  - Personally submitting the protest at the public hearing
  - Email to [info@montecitowater.com](mailto:info@montecitowater.com)
  - Fax at (805) 969-7261
- A. Protests must be received by the end of the public hearing, including those mailed to the District. No postmarks will be accepted; therefore, any protest not actually received by the close of the hearing, whether or not mailed prior to the hearing, shall not be counted.
- B. Although the Board of Directors welcomes oral comments at the public hearing, oral comments will not qualify as a formal protest unless accompanied by a written protest.

**SECTION 4: Protest Requirements.**

A. A written protest must include:

- (i) A statement that it is a protest against the proposed water rate(s) that is the subject of the hearing;
  - (ii) Name of the Customer of Record or Owner of Record who is submitting the protest;
  - (iii) Identity, by street address or District account number, of the Parcel with respect to which the protest is made;
  - (iv) Original signature and legibly printed name of the Customer of Record or Owner of Record who is submitting the protest.
- B. Protests shall not be counted if any of the required elements (i through iv) outlined in the preceding subsection "A." are omitted.

**SECTION 5: Protest Withdrawal.** Any Customer of Record or Owner of Record who submits a written protest may withdraw it by submitting to the District a written request that the protest be withdrawn. The withdrawal of a protest shall contain the information required in Section 4.A., elements ii through iv, and a request that their protest be withdrawn.

**SECTION 6: Multiple Customers of Record, Multiple Owners of Record, or Multiple Parcels.**

- A. Each Customer of Record or Owner of Record of a Parcel served by the District may submit one written protest. This includes instances where:
  - (i) More than one name appears on the District's records as the Customer of Record or Owner of Record for the Parcel, or
  - (ii) More than one name appears on the equalized secured property tax assessment roll for the Parcel or
  - (iii) Parcels are served via a single account, as a single master meter serving multiple family residential units.
- B. Only one written protest will be counted per Parcel as provided by Government Code Section 53755(b).
- C. If more than one Parcel is served by a single account, a separate protest must be submitted with respect to each such Parcel in order to be separately counted.
- D. If an Owner of Record owns multiple Parcels, a separate written protest must be submitted with respect to each such Parcel in order to be separately counted.

**SECTION 7: Transparency, Confidentiality, and Disclosure.**

- A. To ensure transparency and accountability in the rate protest tabulation while protecting the privacy rights of Customers of Record and Owners of Record, written protests will be maintained in confidence until tabulation begins following the public hearing.
- B. Once a protest is opened during the tabulation, it becomes a disclosable public record, as required by state law.

**SECTION 8: Invalid Protests.** The District shall not accept as valid any protest if it determines that any of the following is true:

- A. The protest does not state its opposition to the proposed water rates.
- B. The protest does not name the Customer of Record or Owner of Record with respect to the Parcel identified in the protest as of the date of the public hearing.
- C. The protest does not identify a Parcel served by the District that is subject to the proposed water rates.
- D. The protest does not bear an original signature of the named Customer of Record or Owner of Record with respect to the Parcel identified on the protest. Whether a signature is valid shall be entrusted to the reasonable judgment of the District, who may consult signatures on file with the County Elections Official.

- E. The protest was altered in a way that raises a fair question as to whether the protest actually expresses the intent of a Customer of Record or Owner of Record to protest the proposed water rates.
- F. The protest was not received by the District before the close of the public hearing on the proposed water rates.
- G. A request to withdraw the protest was received prior to the close of the public hearing on the proposed water rates.

**SECTION 9: District's Decisions Final.** The District's decision that a protest is not valid shall constitute a final action of the District and shall not be subject to any internal appeal.

**SECTION 10: Majority Protest.**

- A. A majority protest exists if written protests are timely submitted and not withdrawn by the Customers of Record or Owner of Record with respect to a majority (50% plus one) of the Parcels subject to the proposed water rates.
- B. While the District may inform the public of the number of Parcels served by the District when a notice of proposed water rates is mailed, the number of Parcels with active customer accounts served by the District on the date of the hearing shall control in determining whether a majority protest exists.

**SECTION 11: Tabulation of Protests.** At the conclusion of the public hearing, the District shall tabulate all protests received, including those received during the public hearing, and shall report the results of the tabulation to the Board of Directors. If the total number of protests received is insufficient to constitute a majority protest, the District may determine the absence of a majority protest without validating the protests received but may instead deem them all valid without further examination. Further, if the number of protests received is obviously substantially fewer than the number required to constitute a majority protest, the District may determine the absence of a majority protest without opening the envelopes in which protests are returned.

**SECTION 12: Report of Tabulation.** If at the conclusion of the public hearing, the General Manager determines that they will require additional time to tabulate the protests, they shall so advise the Board of Directors, which may adjourn the meeting to allow the tabulation to be completed on another day or days. If so, the Board of Directors shall declare the time and place of tabulation, which shall be conducted in a place where the public may observe the tabulation, and the Board of Directors shall declare the time at which the meeting shall be resumed to receive and act on the tabulation report of the General Manager.

**SECTION 13:** This resolution repeals any prior resolution concerning the submission and tabulation of protests in connection with rate hearings and is effective immediately upon adoption.

**PASSED AND ADOPTED** by the Board of Directors of the Montecito Water District this 29<sup>th</sup> day of April 2024 by the following roll call vote:

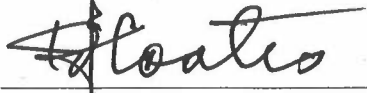
**AYES:** Coates, Goebel, Hayman, Plough, Wicks

**NOES:**

**ABSENT:**

**ABSTAIN:**

**APPROVED:**



Kenneth Coates, Board President

**ATTEST:**



Nick Turner, Board Secretary

