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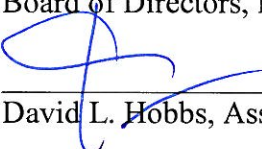
W. Coburn Cook, 1892-1953
Lin H. Griffith, 1923-2014

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94th Anniversary*

July 24, 2014

To: Board of Directors, North San Joaquin Water Conservation District

From: 
David L. Hobbs, Assistant General Counsel

Subject: Irrigation Water Rate Increase/Proposition 218 Overview

This memorandum is intended to provide a brief summary of Proposition 218, its application to rate increases for irrigation surface water and a proposed timeline for Prop. 218 compliance.

1. Proposition 218 Overview.

The California electorate approved Proposition 218 on November 5, 1996, which sets forth a number of procedural and substantive requirements where a public agency seeks to impose or increase a “fee” or “charge” against a user “as an incident of property ownership”. This memorandum is only intended to address rate increases for water charges, in particular surface water for irrigation.¹

The basics for a Proposition 218 rate increase are:

1. The parcels and their respective “record owners” within the District for which the rate increase will be imposed must be identified, based upon the last county assessment rolls. For NSJWCD surface water customers, the parcels to be identified and their respective owners should be those parcels which are reasonably susceptible of receiving surface water. Specifically, those parcels which adjoin District surface water conveyance facilities should be identified for purposes of receiving the notice of the Proposition 218 rate increase.

2. A study or other report which supports, explains and justifies the rate increase is prepared. Usually the study would identify the total amount of revenue needed, and that total is then divided by either the number of users or the amount of water to be supplied. For example only,

¹ For example, rate increases for water/sewer charges are entirely subject to Prop. 218, whereas fees for sewer/water hook-up connections are not, because it is a voluntary decision whether to hook-up to a public system, and therefore the fee is not “imposed” for purposes of Prop. 218.

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if it was determined that the District needed to recoup \$150,000.00 in a year, and the District had 6,000 acre feet of water available, then the rate increase would be \$25.00 per acre foot.

3. A written notice by mail of the proposed rate increase is mailed out to each “record owner of the identified parcel”.
4. A public hearing on the proposed rate increase is held not less than 45 days after the mailing occurs.
5. At the public hearing, the District would consider and tally all qualified “protests against the proposed fee or charge”. Each parcel regardless of size may file one protest.
6. If written protests against the fee are presented by a majority of the identified parcels, the fee cannot be imposed. The converse is also true – if fewer than 51% of the identified parcels submit written protests, the charge may be increased.

Note that the fee increase cannot be for a period exceeding 5 years, although automatic escalators may be built in to the increase, such as an annual adjustment according to the Consumer’s Price Index (“CPI”).

2. Proposed Timeline.

DATE	PROPOSED ACTION
July 28, 2014 or August 31, 2014	Presentation to District Board of Directors on Proposition 218 overview and requirements. Authorize consultant to initiate rate study and authorize staff to commence with identification of parcels/record owners
September 28, 2014	Board reviews draft rate study
October 26, 2014	Board adopts and authorizes the following: <ul style="list-style-type: none">- Adoption of Rate Study- Adoption of Notice to increase water rate- Adoption of effective date of proposed increase- Authorize staff to mail owners notice of increase
October 27-30, 2014	Mailing of Proposition 218 rate increase notices
December 28, 2014	Regular NSJWCD Board meeting – hold public hearing on proposed rate increase <ul style="list-style-type: none">- Count valid written protests- Adopt rate increase if no majority protest

[end of memorandum]