

Foresthill Public Utility District Ordinance 19-01 Staff Review and Response To Ratepayer Objections

INTRODUCTION

On November 18, 2019, the Foresthill Public Utility District (“District”) Board of Directors (“Board”) adopted Ordinance 19-01, establishing a procedure for ratepayers to file written objections to any new water service rates proposed by the District and for the District to evaluate and respond to the merits of any objections before its Board decides whether to approve proposed new rates. The objection procedure seeks to avoid a scenario where the District adopts new rates, and a ratepayer later files a lawsuit challenging the lawfulness of the rates for reasons never presented to the District’s Board before its decision whether to approve the new rates.

The proposed ordinance was included in the agenda packet for the District’s November 18, 2019 public Board meeting and was publicly discussed during the meeting before the Board voted to adopt the ordinance. The District then published Ordinance 19-01 in the Auburn Journal newspaper and posted it at the District’s office, the Foresthill Post Office, and the Foresthill Library. A copy of Ordinance 19-01 also was posted on the District’s website at www.foresthillpud.com, and hard copies of the ordinance have been publicly available during business hours at the District’s office, located at 24540 Main Street, Foresthill, CA 95631. The Ordinance 19-01 objection procedure took effect on December 18, 2019.

Pursuant to Ordinance 19-01, the District mailed to its ratepayers on December 20, 2019 a notice describing enactment of Ordinance 19-01, explaining the purpose of the objection procedure, and describing how to timely file an objection with the District (“Objection Notice”). To fulfill the purposes of Ordinance 19-01, objections were required (1) to state the specific grounds for any concern with a proposed water rate and (2) to include a desired resolution or outcome, if any. To ensure objections were submitted by actual District ratepayers, an objection was required to include the ratepayer’s name, phone number, street address, and e-mail address (if applicable) and preferred method of communication. The District provided an objection template including prompts for all required information (above), posted the template on the District website (www.foresthillpud.com), and made hard copies of the template available for pickup at the District Office. The District’s Objection Notice called for any objections to be submitted and received on or by January 17, 2020, which the District later extended to January 21, 2020.

The District received 57 objections on or by January 21, 2020, and they are provided as Attachment A to this report. District staff has reviewed all objections with the District’s ratemaking consultant, HF&H Consultants, to evaluate and respond to their merits. The District has numbered each objection (1 through 57) and assigned a code number to each issue raised by each objection. In cases where the same issue has been raised by more than one objection, this cross-cutting issue is assigned the same code number in every objection raising it. Below are the District’s responses to the issues raised in the objections.

Submittal of an objection pursuant to District Ordinance 19-01 does not count as submittal of a Protest under California’s Proposition 218 procedure for changing rates. Proposition 218 was passed by voters in 1996 and amended the California Constitution by adding Article XIII D.

Section 6 of Article XIII D establishes procedural requirements and substantive limits on any increase in a local government agency’s property-related fees, including water service rates. With respect to procedural requirements, Article XIII D, section 2 states: “The agency shall conduct a public hearing upon the proposed fee or charge no less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. 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 District mailed notice on December 3, 2020 of the proposed new rates that would be considered for Board adoption at a public hearing scheduled for 7 p.m. on February 25, 2020 (“Proposition 218 Protest Notice”). The Prop. 218 Protest Notice explains that to oppose the proposed new water service rates pursuant to Proposition 218’s protest procedure, one must submit a written protest to the District before the close of the public hearing on February 25, 2020. Objections submitted pursuant to Ordinance 19-01 do not count as Proposition 218 protests, and Proposition 218 protests do not count as objections for purposes of Ordinance 19-01.

Overview of Proposition 218 Legal Principles:

Article XIID, section 6 of the California Constitution provides that water service rates or other property-related fees must comply with certain substantive requirements:

- Revenues derived from the fee must not exceed the funds required to provide the property-related service;
- Revenues derived from the fee shall not be used for any purpose other than that for which the fee or charge was imposed;
- The amount of a fee imposed upon any parcel or person as an incident of property ownership must not exceed the proportional cost of the service attributable to the parcel;
- The fee may not be imposed for a service, unless the service is actually used by, or immediately available to, the owner of the property subject to the fee;
- No fee may be imposed for general governmental services including, but not limited to, police, fire, ambulance, or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

RESPONSE TO OBJECTIONS

I. RATEPAYER GENERALLY OPPOSES PROPOSED RATE CHANGE

1.1. Generally

Objection Identification Number(s) related to this issue: 3, 5, 6, 7, 8, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 56, 57

Many objections state that they disagree with or oppose the proposed rate change but did not explain why. Such objections are acknowledged but lack detail needed for the District to evaluate whether these objectors have identified any conflict between the proposed rate change and Proposition 218’s requirements.

1.2. Proposed rates deviate too much from current rates

Objection Identification Number(s) related to this issue: 4

As shown in the District's Rate Study, the proposed new rate structure accurately proportions the cost of service to all users based on common industry practices (see Section IV of the Rate Study). Under the proposed rate structure, existing service costs are being rebalanced among the customer classes and according to the level of water demand that different customers create. The recommended rate structure lowers the fixed component of a customer's bill to 70% (down from the current 95%) and increases the variable consumption component to 30% (up from the current 10%). That 70-30 split more closely aligns rates with the cost to provide service, and basing a greater percentage of a customer's bill on the variable consumption component will provide customers with greater control over their bill (i.e., if they use less, they pay less).

1.3. We "own" our water but pay some of the highest rates and feel concern about being charged to use water from "our" water supply

Objection Identification Number(s) related to this issue: 15, 22, 55

It is true that the District owns Sugar Pine Dam, which develops the District's principal water supply. But the District is still paying off the cost of having acquired Sugar Pine Dam from the U.S. Bureau of Reclamation, and there are ongoing maintenance, repair, operation and increasing regulatory compliance costs arising from this source of supply and the rest of the District's water treatment, storage and delivery system. As shown in the District's new Rate Study, the proposed rate structure is designed to generate the revenue needed to pay those ongoing costs and to allocate them among the District's ratepayers in proportion to the District's actual cost of providing safe and reliable water service.

1.4. Concerns about tiered pricing

Objection Identification Number(s) related to this issue: 28, 56

Tiered rate structures are commonly used for residential customers to recover the incremental cost of service for each level of demand (e.g., base demand vs. peak demands). As explained in Rate Study Section V, the proposed rate structure would create two tiers for residential customers and one tier for non-residential customers (i.e., commercial establishments, including apartments, mobile home parks, motels and other institutions, like schools). The purpose of the tiers is to more closely align rates with actual water use patterns (and resulting demands on the District's water system) by residential and non-residential customer classes, while maintaining a reasonable level of revenue stability needed for the District to be able to pay all its costs. The residential Tier 1 rate is based on the cost to develop, treat and deliver up to 5,000 gallons per month, which is the average winter water use for all residential customers based on actual residential use data. As explained in the Rate Study, exterior landscape irrigation demands are lowest during the winter wet season, so average winter water use largely represents interior residential uses. The Rate Study explains that if all residential customers used up to the 5,000 gallons per month covered by Tier 1, then the District would only need about half as much infrastructure capacity costs more, so the cost of providing service to Tier 1 customers would exclude about half of the District's water system capital costs. That means the cost of providing more than 5,000 gallons per month are included in the higher Tier 2 rate. On average, water use above the 5,000 gallons per month covered by Tier 1 includes exterior landscape irrigation during the summer dry season, which drives peak water

service demand levels that require use of more infrastructure capacity. The Rate Study explains that non-residential customers have a single tier reflecting average use patterns that are different from the residential pattern of minimum water use in winter and maximum peak use in summer. The proposed tiers are based on the cost of providing different average levels of water service.

1.5. “The idea of monetizing a free asset (Water) that is naturally resupplied yearly into a dam that we paid for with the ideology that users will be in more control of their bill is just smoke and mirrors.”

Objection Identification Number(s) related to this issue: 28

See response to Issue 1.3. The District is not monetizing anything free. The District’s proposed new rates would only cover the ongoing costs to acquire, construct, operate and repair the District’s water development, treatment and distribution system amidst increasing regulatory compliance obligations and related costs. The proposed rate structure would generate the revenue needed to pay those ongoing costs and to allocate them among the District’s ratepayers in proportion to the District’s actual cost of providing safe and reliable water service. If the proposed rates are not adopted, the current rates would continue until a new ratemaking process results in adoption of new rates.

1.6. District wishes to implement new rates to allow it to increase water rates in the future without getting approval of the property owners in Foresthill

Objection Identification Number(s) related to this issue: 28

To be able to meet increasing costs, the District’s new Rate Study and Proposition 218 Protest Notice provide for water service rates to increase by up to 3% for each of the last four years during the five-year period (2019-20 to 2023-24) analyzed by the Rate Study. For the current five year period, 2020-2024, if all proposed rates go into effect, the District cannot raise rates above those described in its Proposition 218 Protest Notice. Under the rates proposed for the next five years, the District’s Board would have discretion to implement rates lower than proposed in the Proposition 218 Protest Notice, but it may not adopt rates higher than the rates shown in the Proposition 218 Protest Notice. If the District receives a 50% majority plus one protest, the proposed rates would not go into effect. If the proposed rates go into effect, any future rate increase beyond the five-year period ending in 2024 would require the District to undertake a new ratemaking process in compliance with Proposition 218’s notice and protest procedures.

1.7. New rate structure will allow [District] to collect more money

Objection Identification Number(s) related to this issue: 28

The proposed new rate structure has been designed to generate the same total revenue as the current rate structure. Annual rate increases up to 3% in fiscal years 2020-21 through 2023-24 would be authorized to meet the ongoing trend of increasing costs to provide service.

1.8. Rate Study is vague

Objection Identification Number(s) related to this issue: 30, 31, 51, 52, 53

Objection noted. The Rate Study is 45 pages of narrative text, figures and tables plus a 19-page spreadsheet showing how the rates were calculated. The objection provides no examples of vagueness, so the District cannot evaluate whether this objection implicates any of Proposition 218's requirements.

1.9. Rate Study is inaccurate

Objection Identification Number(s) related to this issue: 30, 31, 51, 52, 53

Objection noted. District staff disagrees with this characterization of the Rate Study, and the objection provides no examples of inaccuracy. The objection lacks specificity needed for District staff to evaluate whether there are any inaccuracies and, if there were, whether they might implicate compliance with Proposition 218's requirements.

1.10. Rate Study is misleading

Objection Identification Number(s) related to this issue: 51, 52, 53

Objection noted. District staff disagrees with this characterization of the Rate Study, and the objection provides no examples of how the Rate Study might be misleading. The objection lacks specificity needed for District staff to evaluate whether there is anything misleading about the proposed new rates described in the Rate Study and, if there were, whether it might implicate compliance with Proposition 218's requirements.

1.11. Rate Study is unconstitutional

Objection Identification Number(s) related to this issue: 30, 31, 42, 51, 52, 53

Objection noted. District staff disagrees with this characterization of the Rate Study, and the objection provides no examples of how the Rate Study is unconstitutional. The objection lacks specificity needed for District staff to evaluate whether there is anything unconstitutional about the proposed new rates described in the Rate Study and, if there were, whether it might implicate compliance with Proposition 218's requirements.

1.12. Rate Study violates Proposition 218

Objection Identification Number(s) related to this issue: 30, 31, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53

Objection noted. District staff disagrees with this characterization of the Rate Study, and the objection provides no examples of how the Rate Study is violates Proposition 218. The objection lacks specificity needed for District staff to evaluate whether there is anything unconstitutional about the proposed new rates described in the Rate Study and, if there were, whether it might implicate compliance with Proposition 218's requirements.

1.13. Inflated repair costs

Objection Identification Number(s) related to this issue: 51, 52, 53

Objection noted. The objection provides no examples of inflated repair costs and lacks specificity needed for District staff to evaluate the contention. The capital facility repair costs included in the new Rate Study are based on the District's publicly approved budget for FY 2019-20 (which was based on historical actual expenses and reasonable inflationary increases during the financial planning period), and capital plans. In general, the inflation rate is within the Bureau of Labor Statistics average annual inflation rates within the previous twenty years. As always, projected costs used in the five-year financial plan may differ from actual costs. If the ongoing trend of increasing costs ends, the proposed rate structure gives the District's Board discretion on whether to apply the 3% annual inflation adjustments in years 2020-21 through 2023-24.

1.14. Object to the new rate structure and the proposed annual rate increases of three percent for the next five years and the proposed inflation rate of three percent

Objection Identification Number(s) related to this issue: 54

Objection noted. The objection lacks specificity needed for District staff to evaluate how this issue might implicate compliance with Proposition 218. As explained Section III of the Rate Study, the District anticipates 3% annual increases in costs, so the proposed rate structure would allow up to 3% annual increases during the last four years of the five-year rate period (i.e., starting in 2020-2021, following the revenue-neutral new rate structure that would take effect in the last part of fiscal year 2019-2020). The 3% inflation rate is within the Bureau of Labor Statistics' average annual inflation rates within the previous twenty years. As always, projected costs used in the five-year financial plan may differ from actual costs. If the ongoing trend of increasing costs ends, the District's Board could decide not to implement the 3% annual inflation adjustments in years 2020-21 through 2023-24.

II. THE PROPOSED RATES WOULD RESULT IN AN EXCESSIVE INCREASE

2.1. Generally

Objection Identification Number(s) related to this issue: 2, 15

Proposition 218 imposes substantive limitations on water rates and charges, requiring, among other things, that revenue derived from the fee must not exceed the District's costs to provide water to ratepayers, and the amount of a fee imposed must not exceed the proportional cost of serving a customer/parcel. The proposed water rates described in the Rate Study are not excessive because they were developed in accordance with those principles. The District receives the bulk of its revenue from approximately 2,000 ratepayers and, unlike some other water districts, does not receive very much revenue from county ad valorem property taxes.

2.2. We pay more here than in other places nearby

Objection Identification Number(s) related to this issue: 1, 10, 33, 39

Rates vary among public water service providers for many reasons. A ratepayer might assume that the District's water service rates should be similar to rates charged by any other nearby Sierra Nevada foothills district. But each public water service provider has its own, unique infrastructure system to develop or obtain water, to treat the water for drinking, to store the water and maintain necessary system pressure (i.e., for firefighting, etc.), and to deliver treated water to customer connections for end-use. The District develops its own water supply from Sugar Pine Reservoir, delivers raw reservoir water through a long pipeline to the District's own drinking water treatment plant, stores treated water in its own storage tanks, and delivers treated water to customers through the District's own distribution system pipes, pressure reducers, etc. The age of existing infrastructure, miles of pipeline to be maintained, and the cost of developing (i.e., operating an on-stream dam and reservoir) or otherwise obtaining a water supply logically differs from one public water service provider to another. Economies of scale can affect the cost per customer as public water service providers with a large population are able to spread their fixed costs over a larger customer base. The new rates proposed by the District are based solely on the District's costs to provide water service to the District's customers.

2.3. Water bill has increased drastically over last several years or since I moved here

Objection Identification Number(s) related to this issue: 2, 5, 8, 54

The last of five previously planned rate increases took effect on July 1, 2018, and District water service rates have not changed since then. As explained in Section III of the Rate Study, the proposed rates would take effect in March 2020. The new 2020 rates would be revenue-neutral, meaning they are not intended to increase revenue in 2020 over the District existing rates. But the proposed re-structuring of rates would result in some ratepayers paying more while others pay less – all as a result of more closely tying rates to customer water use amounts and their peaking demands on District infrastructure and operations.

The recent rate increases, and the proposed 3% increases over each of the four years from January 1st 2021 through 2024, are necessary to keep up with increasing costs to provide water service in the face of a booming regional and statewide economy, expanding state and federal regulatory mandates, and necessary capital improvement projects to repair, replace and maintain the District's water system, so that it continues to provide safe and reliable public water service. The 3% inflation rate is within the Bureau of Labor Statistics' average annual inflation rates within the previous twenty years. As always, projected costs used in the five-year financial plan may differ from actual costs. If the ongoing trend of increasing costs ends, the District's Board can then decide whether to implement the 3% annual inflation adjustments in years 2020-21 through 2023-24.

The proposed rate structure would give customers more control over their monthly water bill compared to the current rate structure, because the proposed structure would shift costs away from the fixed charge and more onto a customer's variable consumption charge.

2.4. Annual rate increase of 3% for next 5 years is unwarranted based on current surpluses

Objection Identification Number(s) related to this issue: 54

The objection seems to equate surpluses with reserves. As explained in Section III of the Rate Study, the proposed rates would generate revenue to reach prudent reserve targets by FY 2023-24. The Rate Study's Section III describes the basis for operating reserves, debt service reserves, capital reserves, and emergency reserves. The objection does not provide any specificity or examples of how the reserves built into the District's proposed rates are inconsistent with the District's obligations to ratepayers under Proposition 218.

2.5. Applying the proposed structure to current use will result in excessive increase

Objection Identification Number(s) related to this issue: 11

As explained in the Rate Study, the new 2020 rates would be revenue-neutral, meaning they are not intended to increase revenue in 2020 over the District's existing rates. But the proposed restructuring of rates would result in some ratepayers paying more while others pay less – all as a result of more closely tying rates to customer water use amounts and their peaking demands on District infrastructure and operations. Some residential and non-residential customers will see a decrease, while some single-family residential customers using greater than 8,000 gallons per month and some commercial customers will see an increase in their bill. The objection does not provide any examples or specificity needed for the District to further evaluate this objection and whether it implicates compliance with Proposition 218.

2.6. By lowering gallons per month will equal a rate increase

Objection Identification Number(s) related to this issue: 33

As explained in Section III of the Rate Study and as presented and discussed by the District's ratemaking consultant during public information sessions, the new rate structure proposes to remove the existing monthly water allotment (e.g., 10,000 gallons per month for 5/8" and 3/4" meters). The proposed rates would allocate cost so that all residential customers receive water for the same price, subject to their level of demand. Proposed non-residential rates follow the same methodology. Customers categorized in the same customer class receive water for the same price.

Removing the old monthly allotment would not produce a rate increase for all customers. Customers can use the proposed new billing rate calculator published on the District's website to understand how their current monthly use would influence future water bills under the proposed rates. See Figure VI-1 on page 43 of the report for an example of how customer rates could increase or decrease, depending on meter size, monthly usage and customer class.

2.7. Cutting gallons for a family could mean difference between clean clothes or clean children

Objection Identification Number(s) related to this issue: 35

Objection noted. Please see response to issue 3.1 below.

2.8. Rate increase far exceeds increase in budget

Objection Identification Number(s) related to this issue: 40

Objection noted. District staff disagrees with the characterization of the proposed rates as far exceeding the District's budget. As explained in Section III of the Rate Study, the proposed rates would cover the revenue requirement composed of the District's operating costs, capital improvement expenses, and prudent reserve targets -- all within the District's budget. The objection provides no examples or specificity needed for the District to further evaluate this issue and whether it implicates compliance with Proposition 218.

2.9. Inflation rate of 3% is too high based on current economic studies

Objection Identification Number(s) related to this issue: 54

Objection noted. The proposed rate structure's allowing 3% increases over each of the four years from January 1st 2021 through 2024 is necessary to keep up with increasing costs to provide water service in the face of a booming regional and statewide economy, expanding state and federal regulatory mandates, and necessary capital improvement projects to repair, replace and maintain the District's water system, so that it continues to provide safe and reliable public water service. The 3% inflation rate is within the Bureau of Labor Statistics' average annual inflation rates within the previous twenty years. As always, projected costs used in the District's five-year financial plan may differ from actual costs. If the ongoing trend of increasing costs ends, the proposed rate structure gives the District's Board discretion on whether to apply the 3% annual inflation adjustments in years 2020-21 through 2023-24. The objection cites unspecified "economic studies" but provides no specific information for the District to evaluate.

III. BURDENS OF PROPOSED RATE

3.1. Limited, fixed, or low income ratepayer - increase in rates will result in financial hardship

Objection Identification Number(s) related to this issue: 4, 5, 7, 8, 10, 12, 26, 28, 54, 55, 57

As explained in Section III of the Rate Study, the proposed rates are designed to allow for better flexibility to lower water bills for all customers, including limited-, fixed- or low-income customers. Currently, customer bills are approximately 95% fixed and 5% variable (based on actual monthly water use). Because 95% of a customer's bill is fixed, the customer cannot easily reduce its bill by reducing water use (e.g., cutting back on dry-season lawn watering). The recommended rate structure lowers the fixed component to 70% and increases the variable component to 30%, which will decrease bills for those residential customers that currently use less than 8,000 gallons in a month (which is approximately 68% of residential bills during the year) and will provide those that elect to use less in the future a bill that better reflects the cost to provide service.

Shifting from 95% fixed to 70% fixed, in addition to the recommended two-tiered water consumption charge, would tend to reduce the burden on limited-, low- and fixed-income customers.

3.2. Ratepayer uses more water seasonally (i.e., in summer, use more for gardening, landscaping, fire protection)

Objection Identification Number(s) related to this issue: 4, 16, 27, 54

Comment noted. As explained in Section V of the Rate Study, the rates proposed for residential customers would have two tiers, with the first tier encompassing average interior household demand and the second tier encompassing higher demand from foreseeable activities, like exterior landscape irrigation during the peak summer dry season. Using water seasonally produces peak demand (i.e., water consumption above winter water use levels), which leads to sizing facilities to meet that peak demand. Only those who create peak demand should pay for the portion of the District water system and operations needed to meet that peak demand. Proposition 218 requires that rates be set so that no customer/parcel pays more than its proportional share of the costs to provide such service.

3.3. Don't punish ratepayers who settled in Foresthill for rural/gardening lifestyle

Objection Identification Number(s) related to this issue: 4, 27

The District's rate setting process is governed by California law, including Proposition 218. Proposition 218 requires that District revenue from its water service rates must not exceed the funds required to provide water service to ratepayers and requires that the amount of a fee imposed upon any customer/parcel not exceed the proportional cost of the service attributable to the customer/parcel. As explained in Sections III, IV and V of the Rate Study, the proposed new water rates are designed only to recover the District's actual cost of providing water service based on the water used by each customer/parcel. The water service bills for some customers will go down, while bills for other customers will go up.

3.4. Combined with other rising costs, further charges/increases will result in financial hardship

Objection Identification Number(s) related to this issue: 1, 5, 7

Objection noted. The District is sympathetic to the difficulty of keeping up with rising costs of living. As the District's ongoing costs to operate and maintain its water system and comply with increasing state and federal regulatory mandates continue to rise, the District finds it necessary to update its rates to fund a budget ensuring it can continue to deliver safe and reliable drinking water to its ratepayers, based on the actual costs of providing that service. The proposed rates would be revenue-neutral in 2020-2021. The proposed 3% increases that would be authorized in each of the four years from January 1st 2021 through 2024 are necessary to keep up with increasing costs to provide water service in the face of a booming regional and statewide economy, expanding state and federal regulatory mandates, and necessary capital improvement projects to repair, replace and maintain the District's water system, so that it continues to provide safe and reliable public water service. The 3% inflation rate is within the Bureau of Labor Statistics' average annual inflation rates within the previous twenty years. As always, projected costs used in the five-year financial plan may differ from actual costs. If the ongoing trend of increasing costs ends, the proposed rate structure gives the District's Board discretion on whether to apply the 3% annual inflation adjustments in years 2020-21 through 2023-24.

3.5. Even lowering the base rate doesn't compensate for huge monthly increases in peak months

Objection Identification Number(s) related to this issue: 4

Objection noted. Proposition 218 requires that rates be set so that no customer/parcel pays more than its proportional share of the costs to provide such water service. Customers placing additional demand on the District's water system should account for this additional demand by paying a higher rate when their demand exceeds base day demand. There are specific functions the District performs that vary based on the capacity required by the system, such as pumping, treatment, source of supply and distribution of water. The tiered rate accounts for the cost of providing service for these functions.

It is true that some rate payers will pay more (on an annual basis) under the new rate structure, effective March 2020. However, some rate payers will pay less, primarily those customers with two or more dwelling units (e.g., apartment complexes, mobile homes parks, parcels with two dwelling units). In both cases, such ratepayers will be paying for the cost of the service demands they place on the District's system. The rate study found that the total amount of revenue derived by the current rates is sufficient to pay FY 2019-20 projected expenses; therefore, the recommended rates, to be effective in March 2020, are calculated to generate the same total revenue. This means, some rate payers will pay more and some will pay less.

3.6. From a social justice view of the new proposed rates, the only benefits will be to the Foresthill Public Utility District and people who can afford higher water bills leaving lower/fix income residents vulnerable to having their water disconnected if they cannot pay higher bills or deciding what to go without in order to pay their bill.

Objection Identification Number(s) related to this issue: 28

See response to objection issue 3.1. The proposed rates are designed to give all customers – including limited-, fixed- and low-income customers who might have social justice concerns -- more control and flexibility to lower their water bill. Currently, customer bills are approximately 95% fixed and 5% variable (i.e., based on actual monthly water use). The recommended rate structure lowers the fixed component to 70% and increases the variable component to 30%, which will decrease bills for many residential customers. Historic water use data shows that about 68% of residential customers use less than 8,000 gallons of water per month; those with a 5/8" meter would see a reduction in their monthly bill. (See Rate Study Figure VI-1 showing example customer bill impacts of proposed rates.)

Shifting from 95% fixed to 70% fixed while applying the two-tiered variable water consumption charge would tend to reduce the burden on limited-, low- and fixed-income customers.

IV. CONCERNS ABOUT HOW DISTRICT FUNDS ARE SPENT

4.1. Concern about employee compensation/raises “when office is only open three days per week”

Objection Identification Number(s) related to this issue: 10, 22, 29, 54

Concern noted. The District needs to recruit and retain the employees who operate, maintain, repair and replace its water system infrastructure, provide customer service, and fulfill all the District’s public service obligations. The Board reviews compensation annually and exercises its business judgment in determining whether its employee wages are competitive. Industry-standard wages are an important tool in recruiting and retaining employees. The District’s current compensation structure is industry-standard. During the District’s February 12, 2020 Board meeting, the Board publicly reviewed the due diligence it had conducted to support a decision on whether to approve a cost-of-living increase for certain employee categories/positions. That due diligence was initiated by the Board’s Finance Committee, which considered factors like the Bureau of Labor Statistics’ consumer price index, compensation paid to similar positions at nearby public water service providers, including Georgetown Divide Public Utility District, Nevada Irrigation District, San Juan Water District and Placer County Water Agency, which recently hired an employee away from the District. The Board’s due diligence showed that the employee compensation paid by the District is below market for most levels of District employees.

The District office was closed two days per week because of staff reductions to cut operating costs and to help alleviate pressure for rate increases. Even when the District’s office is closed for customer service, District employees continue to work and to be on call, so that the District can continue providing a safe and reliable water supply to its customers 24 hours a day, 365 days a year. The same kind of condition exists for other local public services, like the library and the landfill. Hiring more staff to open the District office five days a week may not provide adequate return on investment measured by additional customer service. Staff is available by appointment at any time when the District office is closed.

4.2. Spending money on court/attorney fees for ongoing litigation

Objection Identification Number(s) related to this issue: 5, 22, 40, 54

A non-residential customer filed a lawsuit against the District in 2017 challenging the water rates that the District’s Board adopted three years earlier, in 2014. The 2017 lawsuit alleged that the 2014 rates violated Proposition 218 for reasons that nobody brought to the District’s attention before the rates were approved in 2014. The District sought to dismiss the lawsuit on the ground that it should not have to spend ratepayer revenue to defend against claims nobody raised before the District adopted its rates, but the trial court allowed the case to proceed anyway. The trial court questioned one aspect of the District’s rates, and the District modified its rates to address the concern. Although the trial court invited the plaintiff customer to seek court assistance to resolve any continuing dispute about the District’s rate adjustment, the plaintiff elected not to seek that assistance. The District disagreed with several aspects of the trial court’s decision, including its decision not to dismiss the lawsuit, so it filed an appeal to seek clarification. As with any litigation, the District considers whether potential settlements are in the best interests of the District and its ratepayers.

4.3. Want to see total transparency to costs of the utility and know where money is going

Objection Identification Number(s) related to this issue: 1

The Rate Study identifies the revenue requirement for the five-year period 2019-20 through 2023-24. Refer to Appendix A of the Rate Study for FY 2018-19 Estimated Costs and FY 2019-20 Approved Budget values used to build the revenue requirement.

The District publishes its financial documents monthly on its website. This includes all expenditures, fund balances and investments. The District's monthly Board meeting agenda packets typically include a cash disbursements register, statement of net financial position, statement of revenues and expense, monthly and year to date financial report, fund accounts balances, investment policy compliance documentation and related public disclosures. The annual budget is publicly reviewed by the District's finance committee and Board and is publicly approved in June. An independent auditor reviews the District's financial statements annually. The most recent District financial audit report is for fiscal year 2018-2019. The independent auditor publicly presented the audit report to the District's Board during its January 8, 2020 public meeting. The audit report states: "In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the District as of June 30, 2019, and the results of its operations and cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America." All of this information has been and remains available from the District's website.

Additionally, for the last six years, the District has been awarded the District Transparency Certificate of Excellence award from the Special District Leadership Foundation. To qualify for the award, the Special District Leadership Foundation requires ethics training, compliance with the Brown Act, reimbursement disclosures, and filing of State Controller's Special District Financial Transactions Reports. The foundation evaluates the District's website and confirms compliance with industry best practices.

4.4. Mishandling ratepayer funds

Objection Identification Number(s) related to this issue: 10

See response to issue 4.3. Funds are not mishandled. An annual independent audit confirms the appropriate handling of funds.

4.5. It is not clear why the district decided they needed an outside source to recommend a rate structure change but [ratepayer] is sure there is a strategic reason for doing so

Objection Identification Number(s) related to this issue: 28

The rate study conducted in 2010 was completed by an outside consultant. In 2014, the District completed its rate study without the use of a consultant. In 2019, the District's Board decided that it would be prudent to obtain the assistance of an outside expert ratemaking consultant to ensure that the District's rates update is fully informed by statewide best practices and works fairly for the community for the next five-year period. The District anticipates that the additional perspectives provided by its ratemaking consultant will help the Board update water service rates

in a way that is fair to its customers, complies with Proposition 218, and generates the revenue needed to continue providing safe and reliable water service to Foresthill.

4.6. Question why [District] need[s] this money and what [the District’s] plans as a nonprofit organization [are] with the extra money collected if the new rate tier is implemented and how it will benefit the property owners of Foresthill

Objection Identification Number(s) related to this issue: 28

See responses to objection issues 1.7 and 2.8.

The District is a special district formed pursuant to the California Public Utilities Code. The District operates in accordance with strict financial controls, annual independent auditor reviews that are published, an annual budget approval process that is public, Proposition 218's public notice and protest procedure, and a wide public disclosure requirements that do not apply to non-profit corporations. As stated in the Rate Study, “the rates proposed in the [study] reflect the current and projected cost of providing service for the next five years.” Section III of the Rate Study details the District’s revenue needs. Section IV of the Study details the District’s cost to provide water service to different customer classes.

V. KEEP CURRENT RATE

5.1. As is

Objection Identification Number(s) related to this issue: 17, 18, 19, 20, 21, 22, 27, 28, 34, 39, 40, 54

Leaving the rates as is would generate insufficient revenues to meet the District’s revenue requirement for providing a safe and reliable public water supply. The revenue requirement accounts for all operating and capital costs and prudent reserve targets.

5.2. Ratepayer suggested specific rate increase

Objection Identification Number(s) related to this issue: 2, 4, 15

See response to issue 1.2. Customer water service bills in FY 2020 will vary, subject to individual customer water consumption levels. See Figure VI-1 on page 43 of the Rate Study for an example of how customer rates could increase or decrease, depending on meter size, monthly usage and customer class. Customers can use the billing rate calculator found on the District’s website to understand how their current monthly use would influence future water bills under the proposed rates. As explained Section III of the Rate Study, the District anticipates 3% annual increases in costs, so the proposed rate structure would allow up to 3% annual increases during the last four years of the five-year rate period (i.e., starting in 2020-2021, following the revenue-neutral new rate structure that would take effect now, in the last part of fiscal year 2019-2020). The 3% inflation rate is within the Bureau of Labor Statistics’ average annual inflation rates within the previous twenty years. As always, projected costs used in the five-year financial plan may differ from actual costs. If the ongoing trend of increasing costs ends, the proposed rate structure gives the District’s Board discretion on whether to apply the 3% annual inflation adjustments in years 2020-21 through 2023-24.

5.3. We pay enough now and object to proposed rates

Objection Identification Number(s) related to this issue: 11, 33

Objection noted. See responses to issues 1.2 and 2.5.

VI. OBJECT OR DISAGREE WITH DISTRICT BOARD

6.1. Want board recalled

Objection Identification Number(s) related to this issue: 1

Objection noted.

6.2. Object to/don't agree with actions of the board

Objection Identification Number(s) related to this issue: 3, 23

Objection noted. This objection lacks specificity needed to evaluate whether the contention implicates the proposed rates' compliance with Proposition 218 or other law.

6.3. Object to board's adversarial attitude toward ratepayers

Objection Identification Number(s) related to this issue: 23

Objection noted.

6.4. Object to board's manipulation of facts

Objection Identification Number(s) related to this issue: 23

Objection noted. This objection lacks specificity needed to evaluate whether the contention implicates the proposed rates' compliance with Proposition 218 or other law.

6.5. Board members should resign

Objection Identification Number(s) related to this issue: 23, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53

Objection noted.

VII. PROPOSED ACTIONS

7.1. Institute an employee pay freeze and reduction in pay, as private-sector businesses do from time to time

Objection Identification Number(s) related to this issue: 15

See response to 4.1. One difference between a private business and the District is that the District has a public duty to provide safe and reliable water service for the families, schools, workplaces and public facilities within its service area who depend on the District as their source of drinking water supply. Particularly amidst a booming regional and statewide economy with upward wage

pressure and competing job opportunities, the District needs to be careful about setting employee compensation, so that it can recruit and retain the employees needed to operate, maintain, repair and replace the water infrastructure on which Foresthill depends for a safe and reliable public water supply.

7.2. Find other cost cutting measures

Objection Identification Number(s) related to this issue: 8, 16, 40

Comment noted. The District is continually looking for cost-saving measures. See response to issue 4.1 regarding District staff cuts and limiting the District's public office hours to three days per week. The District is also actively searching for grant funds. The District recently applied for grant funds to install monitoring equipment at Sugar Pine Dam. The equipment is a requirement from the California Division of Safety of Dams. The District annually applies for and receives grant funding from Placer County Water Agency to assist with expenses like state and federal regulatory compliance obligations associated with Sugar Pine Dam. Funding the improvements and regulatory compliance work with grant funds lowers the cost to ratepayers.

7.3. Requesting re-implement of rates for low income residents

Objection Identification Number(s) related to this issue: 9(c), 12

See response to issue 3.1. Additionally, Proposition 218's proportionality requirement likely prohibits one class of water users from subsidizing another class of water users. If a rate structure was designed to subsidize water supply for low-income ratepayers, it would not comply with the constitutional requirement that rates reflect the proportional cost of the service attributable to the parcel. Cal. Const. art XIII D, section 6(b)(3).

7.4. There should be no difference in the rate between a 5/8" meter and a 3/4" meter at a single family residence. When the new meters were installed, ratepayers were given the option of a 5/8" or 3/4". When ratepayer called the office, was told there would be no difference in the rate. Study should group the 5/8" and 3/4" single family resident meters together at the same rate.

Objection Identification Number(s) related to this issue: 14

Proposition 218 requires that rates be set so that no customer/parcel pays more than its proportional share of costs for service. The District operates so that it is ready, willing and able to meet peak water demand for all customer meters of all sizes. A 3/4" meter provides for a higher average and peak water demand equating to a higher level of service (i.e. water use capacity) than the smaller 5/8" meter. The proposed rates include a higher monthly fixed service charge component for larger meters to account for the higher level of service they provide.

7.5. Charges for residential use should be based on amount of water used regardless of the size of the meter

Objection Identification Number(s) related to this issue: 13

Basing residential water service rates only on actual consumption would result in a volatile and fluctuating revenue stream preventing the District from meeting its annual costs to provide service,

including timely paying its bills and making the long-term infrastructure repairs and replacements needed to provide a safe and reliable drinking water supply for Foresthill. Each meter size requires the District to maintain and operate water system infrastructure with specific design capacity to meet peak customer demands, which is reflected in the District's proposed rates. A meter with a larger capacity is charged more to reflect the larger water demand this meter places on the system compared to a meter with a smaller capacity.

7.6. "Field labor placed on shift work to reduce O.T."

Objection Identification Number(s) related to this issue: 26

Staff actively works to reduce overtime. Converting to shift work would require additional staff and the net result would be an increase in costs.

7.7. Audit contracted services

Objection Identification Number(s) related to this issue: 26

All financial transactions are audited by an independent auditor annually. See response to issue 4.3.

7.8. Concerns re: hosting meetings between 9 a.m. and 2 p.m. and request to host public meetings in the evenings

Objection Identification Number(s) related to this issue: 9(c), 22, 29

Comment noted. The District conducted a Board meeting at 7 p.m. on January 23, 2020 to present the proposed water rates and obtain public input. The District Board meeting to consider these objections and responses is scheduled for 7 p.m. on February 13, 2020. The District Board meeting to receive protests and determine whether to adopt the proposed rates is set for 7 p.m. on February 25, 2020.

7.9. Table rate study until new board members are elected

Objection Identification Number(s) related to this issue: 30

The District last studied and modified its rate structure in 2014 for fiscal years 2014-15 through 2018-19. As explained in the Rate Study, comparing the revenue required to cover operating and maintenance expenses, capital improvement projects, and adequate reserve, to the revenue from current rate structure adopted in 2014 shows the need for the proposed rates.

7.10. Start over and accept the advisory board's recommendations

Objection Identification Number(s) related to this issue: 31

The good work of the Community Advisory Committee ("CAC") was appreciated and seriously considered. The CAC's input did shape the final proposed rate structure. The CAC met five times and issued a five-page report. The report recommended changing how the District structures rates for customers/parcels with multiple dwelling units served through one meter, and the proposed rates would do that. The report recommends changing the ratio between the fixed and variable cost rate components to 80% fixed and 20% variable to help ensure revenue stability. The existing rates

use a ratio of 95% fixed and 5% variable. The proposed rates would use a ratio of 70% fixed and 30% variable, which is a compromise between the existing rate structure and the one recommended by the CAC. The report recommended a single-tier rate structure for all customers. The District's existing rates have no tiers and rely instead on a monthly water allotment that varies according to meter size and a credit of \$0.42 per 1,000 gallon of water use below the allotment and an overage charge of \$1.55 per 1,000 gallons of water used above the allotment. After considering the CAC recommendation and input from the District's ratemaking consultant, the District proposed a compromise that would create a single tier for non-residential customers and two tiers for residential customers. See response to issue 1.4 for further explanation of the proposed tiers and their description and analysis in the Rate Study.

7.11. Rate decrease to align with rates of other public water service providers

Objection Identification Number(s) related to this issue: 10, 33, 34, 54, 55

See response to issue 2.2.

7.12. Create version of objection form that can be filled out and submitted online; Requiring written objections is bad. A questionnaire in the water bill would give all customers a chance to respond, instead of requiring customers to chase down a form.

Objection Identification Number(s) related to this issue: 34, 35

Objection noted. The purpose of Ordinance 19-01 is to provide a meaningful opportunity for a ratepayer to present to the District any concerns about the proposed rates, so that the District can consider those concerns now and decide whether to change its proposed rates, keep the existing rates or better explain the proposed rates. The District is hopeful that this objection procedure will resolve objections to proposed water rate changes and reduce the risk of litigation challenging any decision to approve new rates. This process was designed to increase ratepayer engagement during the ratemaking process. Notice of Ordinance 19-01 and the objection process was mailed to all record owners and customers of record, posted on the District's website, and made available at the District office. Objection templates were posted on the District's website and made available at the District office to assist ratepayers in providing objection input that the District can meaningfully evaluate before making a decision. Thank you for participating in the Ordinance 19-01 objection process.

7.13. Look at other ways to raise revenues such as out of county water sales when surplus water is available without significantly affecting storage at Sugar Pine/sell water from Sugar Pine to fund increases

Objection Identification Number(s) related to this issue: 39, 55

Comment noted. The District views the sale of surplus Sugar Pine Reservoir water to other public water suppliers with unmet water needs as a means of generating revenue to pay District costs that otherwise would have to be funded by its water service customers through rates. Such sales are called "water transfers," which are regulated by a range of state and federal agencies, including the State Water Resources Control Board and the U.S. Bureau of Reclamation. Depending on the location of the buyer, a water transfer also may be regulated by the California Department of Water Resources, which periodically makes the State Water Project's California Aqueduct available to

deliver transfer water to buyers in the San Francisco Bay Area, San Joaquin Valley, Central Coast and Southern California. The market for water transfers is highly volatile, with strong demand in dry years and little or no demand in wet years. The regulatory complexity of implementing water transfers explains why the District has only completed two in its history. Market volatility and regulatory compliance requirements for water transfers make them an unreliable source of revenue for purposes of long-term District financial planning to meet the costs of providing safe and reliable water service. Basing revenue needs on such a volatile source would not be prudent or safe.

7.14. FPUD should pay off the Sugar Pine Dam debt as there are substantial reserves to pay the debt off. PUD should look at the costs of the Sugar Pine Dam & Reservoir Water Right Permit Extension

Objection Identification Number(s) related to this issue: 54

The reserves in the Sugar Pine Dam debt fund are not substantial enough to retire the debt. The District actively manages this debt. In 2014, the debt was refinanced resulting in a lower interest rate and saving the community about \$600,000 in interest cost over the life of the loan. The District's work on the water right permit extension for Sugar Pine Reservoir reflects the complexity of the regulatory compliance obligations administered by state and federal agencies, including the State Water Resources Control Board and United States Forest Service, which owns the land on which Sugar Pine Reservoir was constructed and is now operated. The District needs an adequate and stable revenue stream to be able to successfully navigate that regulatory gauntlet. The proposed rates would provide that stability.

7.15. Resolve all legal issues

Objection Identification Number(s) related to this issue: 9(c), 40, 56

See response to issue 4.2.

7.16. Make court ordered corrections to rates

Objection Identification Number(s) related to this issue: 56

See response to issue 4.2.

7.17. Reduce tiers and cost increases

Objection Identification Number(s) related to this issue: 56

See response to issues 1.4, 1.6 and 1.7. Proposition 218 requires that the cost of service be proportional to each user. Customers placing additional demand on the system should account for this demand by paying a larger rate when their demand exceeds base day demand. There are specific functions the District performs that vary based on the capacity required by the system, such as pumping, treatment, source of supply and distribution of water. The tiered rate accounts for the cost of providing service for these functions.

The proposed rates are set to generate the revenue necessary to cover the projected costs over the five-year planning period. Actual costs and revenues will differ. When actual expenses are lower

than projected, excess revenue is placed in reserve to be used during years in which actual expenses are higher than expected. The rate study provides an explanation of industry standard reserve balance targets (see Section III of the Rate Study). If reserves begin to exceed the prudent target levels, the District will be in a position to reduce the recommended rate increase or elect to not increase rates by the 3% annual inflation adjustment until reserves dip below the target balance.

7.18. Unless and until rate study and full budget are disclosed to the public, the board should not attempt to increase water rates

Objection Identification Number(s) related to this issue: 57

See response to issue 4.3. Both the Rate Study and the District's budget were previously disclosed and made available to the public and will continue to be available for public viewing in multiple formats.

The Rate Study was first presented by the District's ratemaking consultant, HF&H Consultants, during a public meeting of the District Board on November 13, 2019. Hard copies of the Rate Study were provided for members of the public at the meeting. The Rate Study was then posted on the District's website on November 14, 2019. The Rate Study has been available online since that time and can be viewed on the District's website now at: https://www.foresthillpud.com/pdf_files/Foresthill-PUD-Revised-Report-14-Nov-2019.pdf.

Additionally, in an effort to provide public information on the proposed rates and an opportunity for ratepayers to ask questions, the District planned two public information meetings during which its consultant would describe the proposed rates, explain how they were developed, and compare the proposed rates to the District's existing rates. The first public information meeting took place at 7 p.m. on January 23, 2020, and the second meeting is taking place at 7 p.m. on February 13, 2020.

The District's Budgets and Audit Reports for fiscal years 2007 through 2020 are available online, and can be reviewed here: <https://www.foresthillpud.com/finances.html>.

7.19. “For those of us that conserve during the winter months, water storage is probably the alternative given the exorbitant increases in the proposed rate structure. If there is a way to get real-time data on monthly usage for a residence during the winter and a tax credit/rebate compensation to mitigate the portion of the cost for water storage alternatives, we can better smooth out annual demand and not be screwed by the new rates.”

Objection Identification Number(s) related to this issue: 4

Each ratepayer's monthly utility bill includes monthly usage and one-year history of usage. See response to issues 1.4 and 3.1 detailing the Rate Study's description of how the proposed two-tier rate structure for residential customers and the proposed change in the ratio of fixed to variable costs provides more control over customer water bills by more closely tying rates to water use.

VIII. OTHER

8.1. Dispute over meter reading

Objection Identification Number(s) related to this issue: 5

Meters are read monthly around the 15th of the month. Meters are read electronically through the use of an Encoder Receiver Transmitter and a Meter Collection Device. If a customer finds an incorrect reading, please call the office to resolve the issue. This objection lacks specificity needed for the District to evaluate whether there is a discrepancy between the customer's actual water use versus meter readings.

8.2. Reference to the District having a “financial problem”

Objection Identification Number(s) related to this issue: 15

This objection lacks the specificity needed to evaluate the expressed concern. The District publishes its financial documents monthly on its website. This includes all expenditures, fund balances and investments. The District's monthly Board meeting agenda packets typically include a cash disbursements register, statement of net financial position, statement of revenues and expense, monthly and year to date financial report, fund accounts balances, investment policy compliance documentation and related public disclosures. The annual budget is publicly reviewed by the District's finance committee and Board and is publicly approved in June. An independent auditor reviews the District's financial statements annually. The most recent District financial audit report is for fiscal year 2018-2019. The independent auditor publicly presented the audit report to the District's Board during its January 8, 2020 public meeting. The audit report states: “In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the District as of June 30, 2019, and the results of its operations and cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.” All of this information has been and remains available from the District's website. The district does not have a “financial problem” and the proposed rates seek to prevent one from arising and jeopardizing the District's ability to provide safe and reliable water service to Foresthill.

8.3. Proposed increase of water rates should be put to a vote of the people

Objection Identification Number(s) related to this issue: 15

Water service rate increases are governed by Proposition 218. No property-related fee or charge may be extended, imposed, or increased by a special district without first complying with the provisions of Proposition 218 (California Constitution Article XIII D, section 6). Water service fees and charges are property-related fees. Property-related fees are subject to Proposition 218's substantive limitations and procedural requirements. Proposition 218's procedural requirements include notification, a protest hearing, and absent a majority protest, the ability to adopt the proposed rates.

8.4. Reason for increase has not been stated in recent literature of the reason for the increase

Objection Identification Number(s) related to this issue: 15

Page one of the Rate Study explains: “The last rate study, completed in 2014, set rates through fiscal year (FY) 2018-19. The District engaged HF&H to evaluate their current rate structure and update their water rates for a five-year period from FY 2019-20 through FY 2023-24.” Section III of the Rate Study describes the Districts revenue requirements. Section IV of the Rate Study analyzes and describes the costs for the District to provide water service to different customer classes (i.e., residential and non-residential). Together, Sections III and IV of the Rate Study, and the data reviewed to prepare those sections, explain the need for the proposed rate change.

8.5. Foresthill PUD is a nonprofit organization and it is to my understanding that at this time the rates being charged is adequate to meet the needs of the District and any state laws that it is required to follow.

Objection Identification Number(s) related to this issue: 28

See responses to issues 1.14, 2.4, 2.9, 3.4, and 4.6.

8.6. See Objection 9c, issue 8.6: potential need for larger pipes

Objection Identification Number(s) related to this issue: 9(c)

The objection seems to state that Section IV of the Rate Study assumes a need to pay for up-sizing pipes in the District’s existing water distribution system. Section IV of the Rate Study presents the analysis of the District’s cost to serve different customer classes (i.e., residential and non-residential). Neither Section IV nor any other part of the Rate Study assumes the inadequacy of capacity in the District’s existing water development, treatment and distribution system to meet current customer demand. As explained in Section III of the Rate Study, there is an ongoing need to replace pipes that wear out from use and old age.

8.7. See Objection 9c, issue 8.7 re customer classes

Objection Identification Number(s) related to this issue: 9(c)

The Rate Study utilized the District’s fiscal year 2017-18 water consumption data to define customer classes. Customer classes are driven by the discretionary usage patterns of customers, for water consumed in addition to household use. Residential customer patterns historically align to seasonal fluctuations in weather. Dry summers encourage more water use (i.e., exterior landscape irrigation) than wet winters require. Non-residential customers (i.e., commercial establishments, including apartments, mobile home parks, motels and other institutions, like schools) are categorized separately from residential customers, because their pattern of water usage and peak demand varies more. Non-residential customer water use rates tend to reflect less discretion (e.g., whether and how much to water the lawn) and be more driven by business or public service imperatives, compared to residential customer usage. Customers within this category utilize water for business, educational and recreational reasons. In the case of large multi-

unit residences or mobile home parks, the usage is a reflection of the occupants' collective usage patterns, both discretionary and non-discretionary. Not all end-users receiving water through the same meter place the same demands on the District's system, nor peak at the same time. As a result, the collective water consumption for these types of customers is more consistent on a monthly and annual basis when compared to single-family residential customers, whose monthly demand fluctuates in predictable seasonal patterns (i.e., base use in winter, peak use in summer). Refer to Section IV of the Rate Study.

8.8. See Objection 9c, issue 8.8 re tiered rates

Objection Identification Number(s) related to this issue: 9(c)

Comment noted. In *Capistrano Taxpayers Association, Inc. v. City of San Juan Capistrano* (2015) 235 Cal.App.4th 1493, the court set aside water service rates that increased customer bills for the express purpose of cutting water use (increasing water conservation). As explained in Section V of the Rate Study, the two-tier rate structure being proposed by the District for residential customers does *not* seek to cut water use or increase water conservation. The objection does not provide specificity needed to further evaluate whether it implicates the proposed rate structure's compliance with Proposition 218. Note that page 34, Section V, of the Rate Study explains: "The base/extra capacity cost-of-service analysis leads to four distinct services defined by the functions performed by facilities that are designed to provide the services. Each service has an average flow that can be used as the division (i.e., "breakpoint") between each service ...As an industry practice, the use of four tiers is common. However, given the transition from a uniform rate structure, we recommend introducing two tiers for the Residential customer class. We derive rates by combining demand service levels and the associated costs of support." The underlying rationale for the proposed tiers is detailed at pages 33 through 38 of the Rate Study and attached model.

8.9. See Objection 9c, issue 8.9 re "Demand Projections"

Objection Identification Number(s) related to this issue: 9(c)

The objection is unclear as to what is meant by "financial gains" arising from "Demand Projections." See responses to issues 1.14, 2.4, 2.9, 3.4, and 4.6. Appendix A of the Rate Study analyzes customer water demand in the section referring to "8- Load Factors." Tiers were calculated based on FY 2017-18 water demand (actual customer consumption) data. As explained in Section III of the Rate Study, the proposed rates would take effect in March 2020 and would be revenue-neutral, meaning they are not intended to increase revenue in 2020 over the District's existing rates. But the proposed re-structuring of rates would result in some ratepayers paying more while others pay less – all as a result of more closely tying rates to customer water use amounts and their peaking demands on District infrastructure and operations. The proposed 3% increases over each of the four years from January 1st 2021 through 2024 are necessary to keep up with increasing costs to provide water service in the face of a booming regional and statewide economy, expanding state and federal regulatory mandates, and necessary capital improvement projects to repair, replace and maintain the District's water system, so that it continues to provide safe and reliable public water service. The 3% inflation rate is within the Bureau of Labor Statistics' average annual inflation rates within the previous twenty years. As always, projected costs used in the five-year financial plan may differ from actual costs. If the ongoing trend of increasing costs ends, the proposed rate structure gives the District's Board discretion on whether to apply the 3% annual inflation adjustments in years 2020-21 through 2023-24. The proposed rate structure would give

customers more control over their monthly water bill compared to the current rate structure, because the proposed structure would shift costs away from the fixed charge and more onto a customer's variable consumption charge. The objection lacks specificity needed to further evaluate whether it implicates Proposition 218 compliance.

8.10. See Objection 9c, issue 8.10 re calculating proposed charge for each parcel

Objection Identification Number(s) related to this issue: 9(c)

The objection asserts that the District's Proposition 218 Notice violates Proposition 218's procedural requirement to notify customers/parcel owners of the exact proposed water service fee or charge amount that they would have to pay under the proposed new rates. Proposition 218 requires an agency proposing an increased water service rate to 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, *the amount of the fee or charge proposed to be imposed upon each*, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge. Cal. Const. art. XIID section 6(a)(1) (emphasis added). Courts in past Proposition 218 lawsuits involving other public water service providers have addressed this issue, because the vast majority of water service rates include a *variable consumption* charge component making it impossible for a Proposition 218 notice to specify the exact amount of a proposed water rate charge that would apply to each of customer. Where a proposed rate structure includes a variable consumption component affecting the amount of monthly water service bills, the notice requirements of Prop. 218 (Cal. Const. art. XIID, §6(a)(1)) are satisfied if the agency apprises the customer/parcel owner of the proposed *rate* to be charged. Customers can use the billing rate calculator found on the District's website to evaluate their future monthly water bills under the proposed rates, based on continuing their past (or anticipated future) monthly water use.

8.11. See Objection 9c, issue 8.11 re "binding" financial information and rate structure

Objection Identification Number(s) related to this issue: 9(c)

The Rate Study necessarily uses actual historic water use data, the District's current budget, and the District's anticipated future expenses (based on recurring past expenses and specified new future expenses from the District's capital improvement plan, etc.) to project or estimate the future cost to provide water service to different customer classes. The proposed rates are forward looking to pay for future District costs of providing water service, so they necessarily depend on future estimates or projections. The Rate Study identifies the revenue requirement for the five-year period 2019-20 through 2023-24. Refer to Appendix A of the Rate Study for FY 2018-19 Estimated Costs and FY 2019-20 Approved Budget values used to build the revenue requirement. The objection asserts customers are "vulnerable to discretionary unspecified spending and undisclosed rates and tiers" without providing any examples. The District publishes its financial documents monthly on its website. This includes all expenditures, fund balances and investments. The District's monthly Board meeting agenda packets typically include a cash disbursements register, statement of net financial position, statement of revenues and expense, monthly and year to date financial report, fund accounts balances, investment policy compliance documentation and related public disclosures. The annual budget is publicly reviewed by the District's finance committee and Board and is publicly approved in June. An independent auditor reviews the District's financial

statements annually, including the District’s public consolidated annual financial report. The most recent District financial audit report is for fiscal year 2018-2019. The independent auditor publicly presented the audit report to the District’s Board during its January 8, 2020 public meeting. The audit report states: “In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the District as of June 30, 2019, and the results of its operations and cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.” All of this information has been and remains available from the District’s website or by requesting copies from District staff.

The objection asserts customers are vulnerable to “undisclosed rates and tiers,” but the only rates and tiers the District may impose are those described in the Proposition 218 Notice that the District mailed to all customers/parcel owners on December 3, 2019.

8.12. See Objection 9c, issue 8.1 re2

Objection Identification Number(s) related to this issue: 9(c)

The cost of service analysis follows the American Water Works Association (“AWWA”) base/extra capacity method. There is a difference between average and base day demands. Base day demands consist of wet winter consumption, consisting of indoor water consumption. Average day demand is the monthly average derived from annual water use. The average demand accounts for some peaking in consumption during the dry summer months due to exterior landscape irrigation. The original base/extra capacity method uses average day demand as the minimum tier. However, the District’s consultant, HF&H, concludes this approach calculates more than the base level, or minimum demand of water. Hence the Rate Study utilized four demand service levels corresponding to base day, average day, maximum day, and maximum hourly demand.

The District maintains data at its drinking water treatment plant of the daily volume of water treated for consumption. The maximum daily value was used to calculate the maximum daily demand and maximum hourly demand.

8.13. See Objection 9c, issue 8.13 re “legally binding” rates

Objection Identification Number(s) related to this issue: 9(c)

See response to issue 8.11 on how adoption of the proposed rates would create a binding rate structure. See response to issue 1.6 for an explanation of how any future rate increases must follow the Proposition 218 process, including Proposition 218’s public notice and protest procedure. The District’s proposed water services rates are governed by Proposition 218, which includes procedural requirements and substantive limitations on how water service rates may be structured. The Rate Study presents facts and analysis on the District’s revenue requirements (Section III), Cost of providing service to different customer classes (Section IV), a proposed rate design (Section V), how the proposed rate structure would affect customers (Section VI), and concludes with a recommended rate structure for the next five years (Section VI).

8.14. See Objection 9c, issue 8.14 re multi-unit customers

Objection Identification Number(s) related to this issue: 9(c)

How the proposed rates would apply to mobile home parks, apartments, hotels and other commercial enterprises with multiple-dwelling units served through a single meter is addressed in Section IV of the Rate Study in the sub-section titled, Customer Class Modifications, which is part of the Rate Study's Cost of Service Analysis, and also is addressed in Section VI re Customer Bill Impacts. Rate Study Figure VI-1 shows that the proposed rates are expected to reduce the monthly water service cost for such commercial customers.

In response to the objection's comment about parcel owners versus tenants participating the District's Proposition 218 protest proceeding, please see the Proposition 218 Notice that the District mailed to all its customers/parcel owners on December 3, 2020. The Proposition 218 Protest Notice explains that "only one protest is allowed per parcel," so that "if both the tenant and the owner of the same parcel filed a protest, only one protest would count."

In response to the objection's reference to civil litigations concerning multiple dwelling unit charges, a non-residential customer filed a lawsuit against the District in 2017 challenging the water rates that the District's Board adopted three years earlier, in 2014. The 2017 lawsuit alleged that the 2014 rates violated Proposition 218 for reasons that nobody brought to the District's attention before the rates were approved in 2014. The District sought to dismiss the lawsuit on the ground that it should not have to spend ratepayer revenue to defend against claims nobody raised before the District adopted its rates, but the trial court allowed the case to proceed. The trial court questioned one aspect of the District's rates, and the District modified its rates to address the concern. Although the trial court invited the plaintiff customer to seek court assistance to resolve any continuing dispute about the District's rate adjustment, the plaintiff elected not to seek that assistance. The District disagreed with several aspects of the trial court's decision, including its decision not to dismiss the lawsuit, so it filed an appeal to seek clarification. As with any litigation, the District considers whether potential settlements are in the best interests of the District and its ratepayers.

8.15. See Objection 9d, issue 8.15 re multiple dwelling units

Objection Identification Number(s) related to this issue: 9(d)

The current rate study uses the term "accounts" to mean the total number of billed accounts, regardless of customer type. The term, "DU" means dwelling unit and counts the number of living or dwelling units connected to each meter (i.e., an apartment building with 20 apartments or a mobile home park with 20 mobile homes each has 20 DUs). The term, "EMU" means equivalent meter units and is defined and discussed at page 39 of the Rate Study, which describes the design of the proposed rates and provides an explanation of how EMUs are used to calculate service charges by meter size.

8.16. See Objection 9d, issue 8.16 re litigation

Objection Identification Number(s) related to this issue: 9(d)

The objection addresses pending litigation challenging the District’s 2014 rates and how potential outcomes might affect the District. A non-residential customer filed a lawsuit against the District in 2017 challenging the water rates that the District’s Board adopted three years earlier, in 2014. The 2017 lawsuit alleged that the 2014 rates violated Proposition 218 for reasons that nobody brought to the District’s attention before the rates were approved in 2014. The District sought to dismiss the lawsuit on the ground that it should not have to spend ratepayer revenue to defend against claims nobody raised before the District adopted its rates, but the trial court allowed the case to proceed. The trial court questioned one aspect of the District’s rates, and the District modified its rates to address the concern. Although the trial court invited the plaintiff customer to seek court assistance to resolve any continuing dispute about the District’s rate adjustment, the plaintiff elected not to seek that assistance. The District disagreed with several aspects of the trial court’s decision, including its decision not to dismiss the lawsuit, so it filed an appeal to seek clarification. As with any litigation, the District considers whether potential settlements are in the best interests of the District and its ratepayers.

8.17. Object to the way FPUD is trying to get this passed the customer by requiring a written objection

Objection Identification Number(s) related to this issue: 34

The purpose of Ordinance 19-01 is to provide a meaningful opportunity for a ratepayer to raise to the District and resolve an objection to proposed water rates *before* the District approves the rates. This process was designed to increase ratepayer engagement during the water ratemaking process. Thank you for your participation in the Ordinance 19-01 objection process.

8.18. Letting landscaping go without water will increase fire risk/we live in a high fire area and keeping trees and yards water[ed] our personal risk is lower

Objection Identification Number(s) related to this issue: 16, 34, 35

Comment noted. Potable water from the District will remain available to irrigate landscaping. To the extent that a residential customer’s irrigation use during the dry season creates peak demand for District water, the proposed rates more closely tie the District’s increased cost of meeting that peak demand to the monthly water service rate paid by the customer, which implements Proposition 218’s principle to limit rates to the cost of providing service.

8.19. “Allocation of cost”

Objection Identification Number(s) related to this issue: 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53

This objection lacks the detail and specificity needed for the District to evaluate whether the objection implicates any conflict with Proposition 218. See pages 21-32 of the Rate Study for an explanation of the allocation of cost.

8.20. Rate Study illegal/”Rate Study violations”

Objection Identification Number(s) related to this issue: 42, 43, 44, 45, 46, 47, 48, 49, 50

This objection lacks specificity needed to analyze the objection and to provide a substantive response. The objector did not state why the objector believes the rate study is illegal or includes violations, and did not provide any examples. As such, District staff is unable to provide any further review, analysis, or response.

8.21. Explain what Sugar Pine Dam & Reservoir Water Right Permit Extension (\$150k) is for. How do these amounts compare to the information shared with ratepayers in the past?

Objection Identification Number(s) related to this issue: 54

The water right permit issued by the State Water Resources Control Board (State Board) authorizing water diversions and storage at Sugar Pine Dam required an extension at the end of 2011. The District timely petitioned the State Board for an extension of that permit. The Sugar Pine Dam and Reservoir are located on land owned by the U.S. Forest Service, so multiple state and federal agencies are involved with the District’s ongoing and future reservoir operations. To support the District’s permit extension petition, the District is working with a consultant to prepare environmental review documentation examining the effects of a permit extension. A water right permit extension proceeding typically takes several years to complete, and the District’s extension petition is no exception. Budgeted expense funds those efforts and matches information shared with ratepayers in the past.

8.22. Voters turned down multiple proposals until one could be found that would work for everyone.

Objection Identification Number(s) related to this issue: 28

This objection lacks specificity needed for the District to evaluate whether it implicates Proposition 218 compliance for the District’s proposed rates.

IX. INDIVIDUAL RESPONSES

Response to Objection 9a

Objection 9(a) notes one non-substantive typographical error in Section II, Article 4, paragraph three of Ordinance 19-01, which originally stated “Any protests should be received...” but, as the ratepayer pointed out, should have stated “any objection...” On February 12, 2020, the District Board ratified a correction of that non-substantive, typographical error in Ordinance 19-01.

The objection asserts the Ordinance “cannot be in effect for the current Rate Study” because “the Board failed to comply with the requirements of Section II, Articles 1,2, and 3 detailing requirements to notify customers of the procedure and set the timeline and specific deadlines for each step.” The District has complied with and is implementing Ordinance 19-01. A summary of the procedure and action the Board has taken to implement Ordinance 19-01 is set forth in the “Introduction” section, above.

Response to Objection 9b

See response to objection issue 8.10. District staff disagrees with the ratepayer's characterization of the 2019 Notice of Public Hearing. As explained in the preceding response to objection issue 8.10, the District's Proposition 218 Protest Notice complies with the procedural requirements of Proposition 218. An overview of Proposition 218 is provided above, in a section titled, "Overview of Proposition 218 Legal Principles."

Response to Objection 9e

District staff disagrees with the objection's assertion that the process by which the District hired HF&H as a consultant for the Rate Study violated the Brown Act. The District general manager's circulation of a Request for Proposals ("RFP") did not violate the Brown Act.

The Brown Act requires that "all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny." Cal. Gov. Code section 54953(a). The general manager's action circulating an RFP did not constitute a meeting of the legislative body, and was not Board action. Instead, it was a request for ratemaking consultants to make an offer to prepare the District's next rate study. The RFP did not obligate or commit the District to any future course of action. The Board considered the RFP responses at a properly noticed public meeting on March 13, 2013, and the Board took action during the meeting to select HF&H Consultants, Inc. to prepare the Rate Study.