

RESOLUTION NO. 2025-02
OF
THE BOARD OF DIRECTORS OF THE
DURHAM IRRIGATION DISTRICT
ESTABLISHING A PROCEDURE FOR RATEPAYER
OBJECTIONS TO PROPOSED WATER FEE

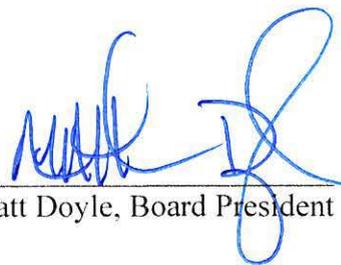
- A. The Durham Irrigation District is a Special District, formed for the purpose of providing public water services.
- B. California law requires that certain changes to water fees must be adopted or approved in accordance with procedures outlined in Article XIII D, of the California Constitution, commonly referred to as "Proposition 218."
- C. Article XIII D, Section 6, establishes certain procedural requirements and substantive limitations a local public agency must follow to adopt a property related fee for water service.
- D. The purpose of this resolution is to provide a meaningful opportunity for a ratepayer to present an objection to a proposed new or amended fee.
- E. This resolution is intended to provide a procedure for ratepayers to bring an objection regarding a new or amended water fee to the District's attention early in the fee consideration process, and to provide an opportunity for the District to address or resolve any objections before the District's Board of Directors makes a final decision on whether to adopt a proposed water fee pursuant to Proposition 218.
- F. This procedure will generally require the District to make available the proposed water fee, post the written basis for the proposed water fee on its internet website, provide 45 days for a property owner to review the proposed fee and timely submit to the local agency a written objection to the fee that specifies the grounds for alleging noncompliance, and require the District to consider and respond in writing timely submitted objections prior to the close of the protest hearing or ballot tabulation hearing required under Section 6 of Article XIII D of the California Constitution; and
- G. For purposes of the proposed water fee adopted by the District pursuant to Section 6 of Article XIII D of the California Constitution, a person or entity shall be prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for any new, increased, or extended water fee, unless that person or entity has timely submitted to the District a written objection to that fee or assessment that specifies the grounds for alleging noncompliance; and
- H. **WHEREAS**, the Board of Directors hereby intends to adopt the exhaustion of administrative remedies procedure as outlined in Government Code section 53759.1, and the administrative record principles contained in Government Code section 53759.2.

THEREFORE the Board of Directors of the Durham Irrigation District RESOLVES as follows:

1. The District Board hereby adopts the exhaustion of administrative remedies procedure contained in Government Code section 53759.1, subdivision (c) and which is set forth as attached.
2. For purposes of any proposed water fee adopted by the District pursuant to Section 6 of Article XIII D of the California Constitution, a person or entity shall be prohibited from bringing a judicial action or proceeding alleging noncompliance with Article XIII D of the California Constitution for any new, increased, or extended water fee, unless that person or entity has timely submitted to the District a written objection to that fee or assessment that specifies the grounds for alleging noncompliance, in compliance with Government Code section 53759.1.
3. The District Board hereby adopts the administrative record principles contained in Government Code section 53759.2.
4. This resolution will take effect after initial board adoption and will apply to any proposed new or amended water fees of which notice is provided pursuant to Prop. 218 and the procedures specified herein.
5. The Board authorizes District staff to take such other and additional actions as may be reasonably necessary to implement the purpose of this resolution and implement the exhaustion of administrative remedies procedure adopted herein.

PASSED AND ADOPTED by the District Board of the Directors on 5/5/2025 by the following vote:

AYES: 3
NOES: _____
ABSTAIN: _____
ABSENT: _____


Matt Doyle, Board President

ATTEST:
By: 

1. Overview of Exhaustion Procedure

The exhaustion procedure shall include the following chronological steps and may run concurrently with the Proposition 218 process (further detail provided below):

1. District board directs staff to send notice of the start of the exhaustion procedure to record owners and/or customers of record.
2. Ratepayers have no less than 45 calendar days to submit to the District written objections to the proposed rate.
3. District staff will review timely submitted written objections and draft a written response to the written objections. District staff will then present its findings and written responses to the District board for review and to determine whether action is needed in response to the written objections and staff responses or findings.
4. A summary of written objections and staff response will be presented prior to the start of a Proposition 218 protest hearing and prior to a final determination by the District board regarding whether to approve the proposed water rate.

2. Initiating Exhaustion Procedure

Once a proposed water rate has been presented to the District board the board shall also direct staff to compile and transmit to ratepayers an exhaustion procedure timeline with specific deadlines for each step of the exhaustion procedure specified below, in compliance with this ordinance. The exhaustion procedure must conclude before the Proposition 218 protest hearing but may conclude on the same day as the Proposition 218 protest hearing.

3. Exhaustion Notice

The exhaustion notice shall include an overview of the exhaustion procedure, specify how ratepayers can submit written objections, provide the date and time by which those objections must be received by the District, specify when written staff response will be presented to the public, and identify the point of contact to whom the objections will be sent. The exhaustion notice must notify ratepayers of the following or substantially similar terms:

“The exhaustion procedure is separate from the Proposition 218 protest hearing. To participate in the exhaustion procedure, a written objection must indicate it is submitted as an objection in accordance with the exhaustion ordinance. Ratepayers who wish to submit a written protest for the Proposition 218 protest hearing must follow separate directions provided in the Proposition 218 notice letter.”

4. Written Objections

Ratepayers shall be given no less than 45 days, starting on the date the exhaustion notice is mailed, to submit written objections to the District regarding the proposed water rate.

As stated above, to avoid confusion with written protests for the Proposition 218 process, a written objection must specify that it is submitted as part of the exhaustion procedure or in accordance with the exhaustion ordinance. All written objections shall state the specific grounds for concern with a proposed water rate and include a desired resolution or outcome. If the nature of the dispute is vague or unclear, the District board may request clarification. Objections shall include the name, phone number, street address, and e-mail address (if applicable) and preferred method of communication with the objecting ratepayer (also referred to as “objector”).

Any protest must be received by the District before the close of business on the stated deadline date, and a postmark will not be considered as sufficient. Verbal objections or written objections that are not received by the deadline specified in the exhaustion notice may be considered by the District board with an offer of proof of extraordinary circumstances. The District board has sole discretion to determine whether to consider those objections.

5. Staff Response

At the close of the written objection period, District staff shall review timely submitted and otherwise compliant written objections in accordance with the requirements above and shall draft written responses to the written objections.

District staff shall present the findings to the District board at a board meeting that was specified in the exhaustion notice. The District board, in exercising its discretion, shall determine whether further review is needed, whether the input gathered from written objections and the staff response warrant amendments to the proposed water rate, or whether to proceed to the Proposition 218 protest hearing.

6. Conclusion of Exhaustion Procedure

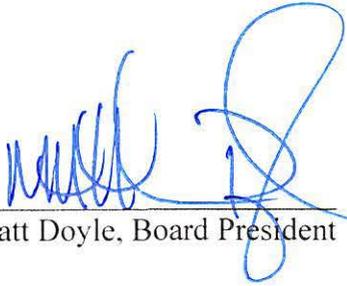
Once the District board has made its final determination as to any objection, it may proceed to the Proposition 218 protest hearing (as previously noticed in accordance with Proposition 218).

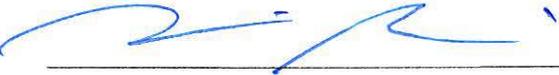
7. Rate Challenger Must Exhaust Administrative Remedies

No claim, suit for damages, suit for injunctive relief, petition for writ of mandamus, or administrative or judicial proceeding shall be brought against the District, the District board, or its employees, officers, or designees, regarding a challenge to a proposed water rate unless the challenging party first exhausts its administrative remedies by complying with the exhaustion procedure specified above.

PASSED AND ADOPTED by the District Board of the Directors on 5/5/2025 by the following vote:

AYES: 3
NOES: _____
ABSTAIN: _____
ABSENT: _____


Matt Doyle, Board President

ATTEST:
By:  _____