

District User Fee to be Reinstated

The District is authorized, by law, to impose rates and charges for services, facilities, or water that it may furnish, as well costs of operations and activities related to the provision of water delivered by others. The District first implemented a User Fee in 1983 as a percentage of the California American Water (Cal-Am) bill to fund District activities and collected it continuously until temporarily suspended by the California Public Utilities Commission (CPUC) in 2009.

The District modified its User Fee by Ordinance sixteen times from 1983 through 2008. The proceeds of the User Fee have been used to support the District's environmental mitigation, conservation and rationing, water supply, and any other purposes throughout the history of its collection;

The CPUC in July 2009 prohibited further regular collection and disbursement by Cal-Am to the District of its User Fee and directed such amounts to be recorded in a memorandum account until Cal-Am reapplied to the CPUC proposing a program to reinstate the User Fee. Such application was made January 5, 2010. A motion to approve an all-party settlement was made to the CPUC in May 2010 which would have allowed continued past practice of collection of the District User Fee on Cal-Am bills. CPUC decision D.11-03-035, issued March 24, 2011 rejected the joint settlement agreement. The CPUC halted collection of the User Fee and ordered the memorandum account closed May 24, 2011. On January 24, 2013 the CPUC issued decision D.13-01-040 modifying D.11-03-035 and denying any further rehearing of the matter.

The District on February 22, 2013 filed a Petition for Review of CPUC Decisions D.11-03-035 and D.13-01-040 with the California Supreme Court.

On January 25, 2016 the California Supreme Court filed its opinion in the suit the District brought against the Commission, determining *"PUC Decision No. 11-03-035 (rejecting Cal-Am's application for authorization to collect the District's user fee, and also rejecting the settlement agreement entered into by Cal-Am, the District, and the Division of Ratepayer Advocates) and PUC Decision No. 13-01-040 (denying the District's application for rehearing) are set aside. The matter is remanded to the PUC for further proceedings consistent with the views expressed herein."*

The CPUC assigned a Commissioner to the case on March 24, 2016. A Decision was adopted by the CPUC at its January 19, 2017 meeting.

Under the 2017 Decision, Cal-Am is authorized to resume collecting the District User Fee, equal to 8.325 percent of the water charges billed by Cal-Am and remit the proceeds to the District to take effect within thirty days after the beginning of the billing cycle that includes a notice to Cal-Am customers of the User Fee's reinstatement, which viewable here on the District's website.

Cal-Am shall remove the Conservation Balancing Account surcharge and the Carmel River Mitigation Program Balancing Account surcharge from customer bills at the same time the User Fee is placed on the customer bills.

Hence, the User Fee will pay for the costs of the Carmel River Mitigation Program and the District's Conservation Program. As a result, surcharges for those activities will be removed from customer bills.

The District board has authorized collection of both its Water Supply Charge and the User Fee for at least 3 years. This will be done for 4 key reasons: (i) the User Fee would primarily fund programs already in Cal-Am surcharges (District conservation and river mitigation), so there is little "new" revenue; (ii) the Monterey Peninsula Taxpayers Association lawsuit over the Water Supply Charge remains unresolved, hence that revenue remains at risk; (iii) there are still large near-term expenditures required on water supply projects; and (iv) Cal-Am has a recent history of significant revenue undercollection, so the viability of the User Fee is at risk until the CPUC rules on a more stable rate design, and the predictability of the User Fee revenue is better known. After that time, the District will begin to sunset or reduce collections of either or both, if possible.