



Chairman

December 19, 2014

Andrew Vanderlaan
Public Member

Vice Chairman

TO: Special Districts Advisory Committee

Bill Horn (Acting)
County Board of
Supervisors

FROM: Executive Officer

Members

SUBJECT: Response to Correspondence from Rainbow Municipal Water District and Fallbrook Public Utility District

Dianne Jacob
County Board of
Supervisors

Vacant

Lori Zapf
Councilmember
City of San Diego

Vacant

Sam Abed
Mayor
City of Escondido

This memorandum is in response to correspondence sent by the Rainbow Municipal Water District (MWD) on December 15, 2014 and the Fallbrook Public Utility District (PUD) on December 17, 2014 regarding the proposed reorganization of the Fallbrook PUD and the Rainbow MWD. The reorganization is scheduled for discussion by LAFCO's Special Districts Advisory Committee on December 19, 2014. A response to the letters submitted by both of the districts follows:

Assessed Value of Land

Alternate Members

Greg Cox
County Board of
Supervisors

Sherri Lightner
Councilmember
City of San Diego

Jo MacKenzie
Vista Irrigation District

Lorraine Wood
Councilmember
City of Carlsbad

Harry Mathis
Public Member

Rainbow MWD made a significant error by misrepresenting a statement on page 15 of the LAFCO staff report pertaining to the assessed value of land for both special districts. Page 15 of the LAFCO staff report references the County Assessor's July 29, 2014 calculation of the assessed value of land within the Rainbow MWD and Fallbrook PUD. LAFCO must utilize these land value figures when making important protest and election determinations pursuant to State Law. These figures (\$1.6 billion assessed value of land within Rainbow MWD and \$1.3 billion assessed value of land within Fallbrook PUD) pertain to the value of land only and not total assessed valuations (land and improvements). LAFCO must use assessed value of land figures per protest and election provisions contained in Government Code Sections 57077.1-4 and 56877. Rainbow erroneously claims that the figures need to be corrected and that LAFCO should have used a \$3.6 billion figure for Rainbow instead of \$1.6 billion. Rainbow MWD's comments about assessed value represent a significantly flawed understanding and misrepresentation of provisions in State Law by overstating the assessed land value in Rainbow by approximately \$2 billion. Copies of the July 5, 2014 County Auditor's property tax reports for both agencies are attached.

Executive Officer

Michael D. Ott

Special Counsel

Michael G. Colantuono

the Special Districts Advisory Committee in 2013 and by the Commission in 2014. Per LAFCO's Municipal Service Review, it was formally noted by the Commission that the Rainbow MWD exhibited instability by having high employee turnover and 11 general managers from 1994-2006. LAFCO also noted that conditions improved from 2006-2012. However, as the advisory committee is aware, from 2013-2014, the Rainbow MWD has again experienced some instability by having four (4) different general managers in a short period of time (two general managers and two interim managers). The minutes of LAFCO's Municipal Service Review hearing on June 2, 2014 reflect that Rainbow MWD's Engineer (Kirsten Plonka), representing the Rainbow MWD was in support of these LAFCO determinations.

Benefit of Doubt Given to Rainbow

A copy of the Fallbrook PUD's letter from December 17, 2014 is attached that contains three comments. One comment indicates that the advisory committee report is factually sound and comprehensive. Another comment corrects the amount of funds Fallbrook spent to support the reorganization. The other comment expresses concern that the report favors the Rainbow MWD by posing queries in the negative, giving the benefit of the doubt to Rainbow via a denial of the proposal. The PUD (and the MWD) should be reminded that most, but not all, reorganizations considered by LAFCO emerge out of a cooperative process between agencies. This is a preferable, albeit not required method of initiation. The reorganization of the Fallbrook PUD and Rainbow MWD was initiated over the objections of the Rainbow MWD. Based on the manner in which the reorganization proposal was initiated, LAFCO is not obligated to approve the reorganization—in contrast to other LAFCO actions which require mandatory approval. In addition, a substantial number of residents within the Rainbow MWD have also expressed objections to the reorganization. Based upon these factors and the level of opposition, the LAFCO staff report does indeed contain a number of questions phrased in the negative seeking advice from the advisory committee regarding the possible denial of the reorganization. This is an appropriate hypothetical for the advisory committee to consider. However, it is highly speculative and prejudicial to assume that LAFCO staff already made a decision as to the possible denial, approval, or modification of the reorganization proposal.

Respectfully Submitted,



MICHAEL D. OTT
Executive Officer

MDO:trl

Attachments

1. Rainbow MWD Assessed Valuation Report, July 5, 2014
2. Fallbrook PUD Assessed Valuation Report, July 5, 2014
3. Monthly Update of Rainbow MWD CIP Budget, June 30, 2014
4. Correspondence: Rainbow MWD, December 15, 2014
5. Correspondence: Fallbrook PUD, December 17, 2014

RAINBOW MUNICIPAL WATER DISTRICT

(1%)

FUND NO. 6670-00

ASSESSED VALUATIONS ARE UNEQUALIZED AS THE ASSESSMENT APPEALS BOARD HAS NOT COMPLETED HEARINGS FOR THE LOCALLY ASSESSED VALUATIONS AND EQUALIZED STATE
 ASSESSED VALUATIONS WILL NOT BE AVAILABLE UNTIL AFTER THE 20TH DAY OF AUGUST.

	LAND	IMPROVEMENTS	PERSONAL PROPERTY	TOTAL VALUATION	ALL OTHER EXEMPTIONS	GROSS AV LESS AO EXEMPTIONS	HOMEOWNERS EXEMPTIONS	NET VALUATION
STATE SEC	1,728,378	66,171,622	0	67,900,000	0	67,900,000	0	67,900,000
LOCAL SEC	1,633,070,398	2,102,620,529	8,816,933	3,744,507,860	16,478,893	3,728,028,967	35,520,800	3,692,508,167
TOTAL SEC	1,634,798,776	2,168,792,151	8,816,933	3,812,407,860	16,478,893	3,795,928,967	35,520,800	3,760,408,167
UNSECURED	0	4,420,887	17,104,953	21,525,840	83,481	21,442,359	0	21,442,359
TOTAL AV	1,634,798,776	2,173,213,038	25,921,886	3,833,933,700	16,562,374	3,817,371,326	35,520,800	3,781,850,526

FALLBROOK PUBLIC UTILITY DISTRICT

(1%)

FUND NO. 6240-00

ASSESSED VALUATIONS ARE UNEQUALIZED AS THE ASSESSMENT APPEALS BOARD HAS NOT COMPLETED HEARINGS FOR THE LOCALLY ASSESSED VALUATIONS AND EQUALIZED STATE
 ASSESSED VALUATIONS WILL NOT BE AVAILABLE UNTIL AFTER THE 20TH DAY OF AUGUST.

	LAND	IMPROVEMENTS	PERSONAL PROPERTY	TOTAL VALUATION	ALL OTHER EXEMPTIONS	GROSS AV LESS AO EXEMPTIONS	HOMEOWNERS EXEMPTIONS	NET VALUATION
STATE SEC	0	0	0	0	0	0	0	0
LOCAL SEC	1,360,025,045	1,956,106,479	5,578,073	3,321,709,597	87,152,879	3,234,556,718	38,854,537	3,195,702,181
TOTAL SEC	1,360,025,045	1,956,106,479	5,578,073	3,321,709,597	87,152,879	3,234,556,718	38,854,537	3,195,702,181
UNSECURED	0	9,695,148	32,476,017	42,171,165	1,690,689	40,480,476	0	40,480,476
TOTAL AV	1,360,025,045	1,965,801,627	38,054,090	3,363,880,762	88,843,568	3,275,037,194	38,854,537	3,236,182,657

Rainbow MWD									
Projected CIP Cash Flow									
Monthly Update of 2013-14 CIP Budget									
6/30/2014									
A	B	C	D	E	F	H	I	J	
CIP EXPENDITURES:									
Job #	Water Job Name	Funds Budgeted	Funds Expended in Prior Years	Funds Expended 2013-14	Remaining Budget FY 13/14	Budget FY 14/15	Budget FY 15/16	Budget FY 16/17	
1									
2	201283	Morro Chloramine Disinfection CDPH	\$712,000	\$1,070,209	\$3,476	\$0	\$0	\$0	\$0
3	200748	Highway 76 Realignment-Water Lines	\$1,020,000	\$384,491	\$574	\$634,935	\$0	\$0	\$0
4	201258	Highway 76 Water Lines Phase 2	\$0	\$47,083	\$175	\$0	\$0	\$0	\$0
5	201259	Hwy 76 Water Lines - Inside Bridge	\$0	\$1,515,928	\$1,613	\$0	\$0	\$0	\$0
6	200340	Pala Mesa Tank Site	\$10,000,000	\$8,113,171	\$945	\$83,000	\$0	\$0	\$0
7	200683	Beck Reservoir Rehab	\$12,000,000	\$482,832	\$401,987	\$2,000,000	\$5,000,000	\$4,135,181	\$0
8		Gird to Monserate Hill Water Line	\$950,000	\$0	\$0	\$0	\$0	\$350,000	\$0
9		Wrightwood to Cottonail Water Line	\$200,000	\$0	\$0	\$0	\$0	\$200,000	\$0
10		Tank Terrace Water Line	\$150,000	\$0	\$0	\$0	\$150,000	\$0	\$0
11		Regional Recycled Water Study	\$150,000	\$0	\$0	\$150,000	\$0	\$0	\$0
12	201446	San Luis Rey Groundwater Study	\$500,000	\$94,491	\$95,023	\$310,486	\$0	\$0	\$0
13	201360	Morro Tank Structural Repair	\$50,000	\$0	\$48,447	\$1,553	\$0	\$0	\$0
14	201359	Planchos Amigos Pressure Stations	\$25,000	\$2,135	\$0	\$25,000	\$0	\$0	\$0
15									
16		Other Infrastructure Replacements				\$3,512,962	\$3,850,000	\$2,850,000	\$4,000,000
17		Total Expenditure (Water):	\$25,797,000	\$11,690,340	\$532,241	\$6,717,935	\$9,000,000	\$8,135,181	\$4,000,000
Wastewater Job Name									
18									
19	201266	Sewer Outfall Line RMWD Replacement	\$13,000,000	\$92,277	\$38,829	\$61,171	\$4,300,000	\$4,300,000	\$4,207,723
20	201040	Lift Station #1 Replacement	\$2,400,000	\$80,747	\$14,074	\$86,926	\$1,500,000	\$719,253	\$0
21	200768	Highway 76 Realignment-Sewer lines	\$100,000	\$11,985	\$0	\$88,015	\$0	\$0	\$0
22	201261	Hwy 76 Realignment - CalTrans East Seg	\$13,920,000	\$253,834	\$7,785	\$1,400,000	\$1,400,000	\$1,400,000	\$1,400,000
23	201260	Hwy 76 Upsize to Gird Rd		\$213,776	\$109,332				
24		Land Outfall - City of Oceanside	\$0	\$582,498	\$0				
25									
26									
27		Total Expenditure (Wastewater):	\$29,420,000	\$1,234,917	\$170,920	\$1,635,112	\$7,200,000	\$6,419,253	\$5,607,723
CASH FLOW SUMMARY:									
Water Capital Funding									
28		Beginning Cash Balance			-\$1,026,694	\$9,260,509	\$9,606,238	3,989,838	3,613,058
29		Capacity Fees			\$122,908	\$830,000	\$1,100,000	\$3,200,000	\$3,700,000
30		Interest Income			\$0	\$58,300	\$50,000	\$75,000	\$75,000
31		Transfers from Water Operations			\$1,000,000	\$2,291,900	\$2,227,600	\$4,889,400	\$5,557,300
32		Total Water Expenditures			-\$552,241	-\$6,717,935	-\$9,000,000	-\$8,135,181	-\$4,000,000
33		Interfund Transfer from Wastewater			\$0	\$0	\$0	\$0	\$0
34		Interfund Transfer to Wastewater			\$0	\$0	\$0	\$0	\$0
35					\$0	\$0	\$0	\$0	\$0
36		Loan Proceeds- SRF			\$14,135,188	\$3,864,814	\$0	\$0	\$0
37		Repayments to Wastewater			-\$4,418,651	\$18,651	\$0	\$0	\$0
38					\$0	\$0	\$0	\$0	\$0
39		Ending Cash Balance Water			\$ 9,268,599	\$ 9,906,238	\$ 3,989,838	\$ 3,613,058	\$ 9,145,358
Wastewater Capital Funding									
40		Beginning Cash Balance			\$ 8,574,553	\$13,259,496	\$11,823,940	\$4,878,940	\$2,239,687
41		Capacity Fees			\$ 384,218	\$0	\$0	\$3,600,000	\$6,500,000
42		Impact Fees Proposed:			\$0	\$0	\$0	\$0	\$0
43		Interest Income			\$52,095	\$199,555	\$120,000	\$45,000	\$33,000
44		Transfers from Sewer Operations			\$0	\$0	\$135,000	\$135,000	\$422,000
45		Interfund Transfer to Water			\$0	\$0	\$0	\$0	\$0
46		Interfund Transfer from Water			\$0	\$0	\$0	\$0	\$0
47		Transfer Repayments from Water			\$4,418,651	\$0	\$0	\$0	\$0
48		Total Sewer Expenditures			-\$170,020.14	-\$1,635,112	-\$7,200,000	-\$6,419,253	-\$5,607,723
49		Ending Cash Balance Wastewater			\$13,289,498	\$11,823,940	\$4,878,940	\$2,239,687	\$3,588,964





December 15, 2014

Kimberly Thorner, Esq.
Olivnehain Municipal Water District
San Diego LAFCO Special District Advisory Committee Member
VIA EMAIL - kthorner@olivenhain.com

RE: Fallbrook Public Utility District (FPUD) and Rainbow Municipal Water District Reorganization

Dear Kim:

As you are aware, the LAFCO Special District Advisory Committee (SDAC) will consider the topic of the Fallbrook Public Utility District and Rainbow Municipal Water District Reorganization at the December 19, 2014 meeting. The agenda packet for this meeting contained a staff report from LAFCO that contains factual errors and other inconsistencies that we would like to bring to your attention. It would have been our preference to work with the LAFCO staff to correct these issues and enable them to send a revised report, but the time frames allotted for our review of the report did not allow for this.

First, the report contains a number of simple factual errors that should be corrected for the record:

- On Page 10, LAFCO staff incorrectly summarizes Rainbow's level of debt. Specifically, staff makes an assumption about a sewer relocation project related to the Highway 76 expansion that is simply incorrect. The staff report says that this project will add significantly to RMWD debt but the reality is that the project will cost Rainbow roughly \$2 Million and is being paid entirely out of reserves. RMWD did not, and will not accrue any debt for this project, so RMWD's total debt remains ***well under half*** that of FPUD with a total as of June 30, 2014 of \$14 Million.
- At the top of Page 15, the staff report incorrectly characterizes the total assessed valuations of the two agencies. According to the report issued this summer by the County Auditor, Rainbow has a total assessed valuation of more than \$3.6 Billion whereas FPUD is less than \$3.1 Billion.
- On Page 4, the LAFCO staff reprints an erroneous statement by FPUD related to the replacement of vacant senior management positions at Rainbow. While it is true that a new GM was hired, none of the other senior management positions were filled through external hires – both the engineering and finance positions are being handled through lower level staff that is acting in those roles; no replacements have been made.

As we reviewed the LAFCO staff report, we were struck by the tenor of this report which is so clearly one sided. A casual reader could not review this document and make the determination that it was impartial or balanced in any way. This is regrettable because the report appears to be an attempt to constrain the consideration of the issue into a very narrow range of topics that LAFCO staff has handpicked in order to guide the SDAC toward the outcome seemingly preferred by LAFCO staff. After many months of working with LAFCO staff in good faith, to say that Rainbow's leadership team is disappointed by the unfair representation in this report is an understatement.

This LAFCO staff bias against Rainbow is not new. In the original Preliminary Staff Report dated May 28, 2014, LAFCO staff sent copies of the report to the Fallbrook Community Planning Group as well as all Fallbrook School Districts but failed to send copies to the Bonsall Community Sponsor Group, Rainbow Community Planning Group, or the Bonsall or Vallecitos School Districts. This omission has limited the information provided to Rainbow community groups.

We are also disappointed that LAFCO staff decided on Page 3 to add a statement indicating that in the past Rainbow has had periods of "instability in terms of governance and administration" but fails to mention that FPUD has for the last few years barred one of their own board members from closed sessions and other deliberative processes. That LAFCO staff made sure to add in an aspersion about RMWD while remaining silent about FPUD is another example of the bias in the report.

This matter is before the SDAC because of an application submitted by FPUD in which they propose the dissolution of a neighboring public agency without the consent of that agency. This is a provocative move to be sure, with a scant few examples of precedence. When considering the merits of such an application, LAFCO is charged with evaluating the merits of the proposal and making a decision free of prejudice or bias.

For some reason, LAFCO staff has included *just 2 paragraphs* on page 4 with the heading "Proposal Justification". These two paragraphs are essentially a cut and paste from FPUD's application and LAFCO staff has included exactly ZERO analysis or response to FPUD's claims of justification. Indeed, LAFCO staff has chosen to include inflammatory language that was part of FPUD's application and present it to the SDAC as if it had merit. The report includes a statement that Rainbow's departure from the JPA and subsequent hiring of a General Manager was somehow "destabilizing" and "provocative". By choosing to include these sorts of statements without any sort of response or analysis of validity, LAFCO staff is essentially endorsing these statements. Withdrawing from a contract with another agency by using contractually defined methods for doing so is neither destabilizing nor provocative, nor is hiring a GM. The fact that LAFCO staff allows FPUD's characterization of these actions to be included unchallenged demonstrates the clear bias of this report.

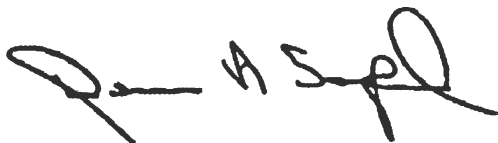
In stark contrast to the *two cut-and-paste paragraphs* supporting the proposed action to dissolve an entire agency, LAFCO staff dedicated **12 pages** to a detailed analysis and response to Rainbow's Resolution of Objection. Each component of Rainbow's objection was thoroughly analyzed and dissected with staff commentary and even legal opinion added in to the document. It is astonishing to see so much effort put into this part of the document in contrast to the rubber stamp on FPUD's application.

Further, LAFCO staff has written this document to unfairly narrow the scope of the SDAC's consideration of the matter. LAFCO staff is not allowing the SDAC to use their considerable skill and experience with Special Districts to provide the Commission with advice on the reorganization in general. LAFCO staff has narrowed the focus in this report to only a handful of the many considerations the Commission will have to review, and has tied the hands of the SDAC with a report that reads like jury instructions. At the December 19th meeting we will present additional information for your review that is not included in this report.

Throughout this entire process, the objections by Rainbow to FPUD's proposal have been about governance and the right of the people to be able to fairly choose their elected representatives. FPUD's proposal will result in a system of electing representatives that will not only disenfranchise Rainbow's ratepayers; it will expose those same ratepayers to litigation due to the illegality of "at large" elections. While LAFCO staff attempts to make a legal argument that the California Voter Rights Act (CVRA) would allow FPUD's proposed structure, the reality is that "at large" election systems have lost each and every time they have been challenged. The simple fact that FPUD has a substantial Hispanic population but has *never* had a Hispanic board member is prima facie evidence of the discriminatory nature of their "at large" election system. Rainbow has repeatedly asked FPUD to consider a divisional election system that is legal, but they have refused.

We look forward to a free and open discussion about all of the factors surrounding this proposed action at the meeting on December 19th. It is only through a fair and wide ranging consideration of the issues that the SDAC can provide the Commission with the benefit of their expertise in these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Sanford". The signature is written in a cursive, somewhat stylized font.

Dennis Sanford
Vice President Rainbow Municipal Water District



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Al Gebhart
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Staff:

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General Manager

Jack Bebee
Assistant General Manager

Marcie Eilers
Admin Services Manager

Robert H. James
Legal Counsel

Mary Lou Boultinghouse
Board Secretary

December 17, 2014

Mr. Michael D. Ott
Executive Officer
San Diego LAFCO
9335 Hazard Way, Suite 200
San Diego, California 92123

Subject: Fallbrook Public Utility District Reorganization
Special Districts Advisory Committee

Dear Mr. Ott: *Mike*

We have reviewed the December 19, 2014 staff report prepared for this Friday's Special Districts Advisory Committee (SDAC) meeting regarding the proposed Fallbrook Public Utility District (FPUD) reorganization.

On our review, we find the report to be factually sound and comprehensive in both its evaluation of the FPUD proposal and Rainbow's resolution of objection.

A minor correction is needed on page 3 of the report where it states that FPUD has spent \$8,415 in political support of the reorganization. The actual amount is \$2,970.

If we could register one comment of concern, it is regarding the questions posed to the committee at the end of the report. Several of the questions are framed in the negative; that is, giving the benefit of the doubt to a denial of our proposal. Having said that, however, we are confident that the SDAC will come to the same conclusion that both the FPUD and Rainbow Boards did last year—that the merger of these two organizations is in the best interests of ratepayers, employees, and the communities we serve.

We look forward to the SDAC's deliberations this Friday.

Sincerely,

A handwritten signature in blue ink that reads "Brian".

Brian J. Brady, Ed.D., P.E.
General Manager