



**San Diego County**  
**Local Agency Formation Commission**  
 Regional Service Planning | Subdivision of the State of California

**7a**

**AGENDA REPORT**  
 Business | Action

June 1, 2020

**TO:** Commissioners

**FROM:** Keene Simonds, Executive Officer

**SUBJECT: Consideration to Form a Committee and Related Actions Involving Reorganization Proposals Filed by Fallbrook Public Utility District and Rainbow Municipal Water District (action)**

**SUMMARY**

The San Diego County Local Agency Formation Commission (LAFCO) will consider options to form and task a committee to advise on reorganization proposals filed by the Fallbrook Public Utility District (PUD) and Rainbow Municipal Water District (MWD). The item responds to Commission interest at its May meeting to explore committee options given the anticipated complexities underlying the reorganization proposals and associated requests to detach from the San Diego County Water Authority. Options on both composition and tasks are presented and the Executive Officer will provide a recommendation to the Commission on June 1<sup>st</sup> in conjunction with having additional discussions with the affected agencies.

**BACKGROUND**

**Reorganization Proposal Filings by Fallbrook PUD and Rainbow MWD**

San Diego LAFCO received separate reorganization proposals in March 2020 from Fallbrook PUD and Rainbow MWD seeking Commission approval to concurrently (a) detach from the San Diego County Water Authority and (b) annex to Eastern MWD. The stated purpose of the reorganizations as detailed in the proposal materials is to achieve cost-savings for the agencies by transitioning the purchase of wholesale supplies. Staff currently anticipates an

<p><b>Administration</b>          Keene Simonds, Executive Officer          County Operations Center          9335 Hazard Way, Suite 200          San Diego, California 92123          T 858.614.7755 F 858.614.7766          www.sdlafco.org</p>	<p><b>Jim Desmond</b>          County of San Diego</p> <p><b>Chair Dianne Jacob</b>          County of San Diego</p> <p><b>Greg Cox, Alternate</b>          County of San Diego</p>	<p><b>Mary Casillas Salas</b>          City of Chula Vista</p> <p><b>Bill Wells</b>          City of El Cajon</p> <p><b>Paul McNamara, Alternate</b>          City of Escondido</p>	<p><b>Mark Kersey</b>          City of San Diego</p> <p><b>Chris Cate, Alternate</b>          City of San Diego</p>	<p><b>Jo MacKenzie</b>          Vista Irrigation</p> <p><b>Barry Willis</b>          Alpine Fire Protection</p> <p><b>Erin Lump, Alternate</b>          Rincon del Diablo MWD</p>	<p><b>Vice Chair Andy Vanderlaan</b>          General Public</p> <p><b>Harry Mathis, Alternate</b>          General Public</p>
---	---	---	---	---	--

approximate 15 to 20-month timeline to process the reorganization proposals and this includes soliciting input from Riverside LAFCO based on an earlier agreement with the Commission.<sup>1</sup> Copies of both Fallbrook PUD and Rainbow MWD’s proposals are available on the Commission website ([www.sdlafco.org](http://www.sdlafco.org)).

### Initial Commission Actions | County Water Authority Applications for Alternative Conducting Authority Proceedings

At its May 4, 2020 meeting, San Diego LAFCO approved applications from the County Water Authority to apply alternative conducting authority proceedings should the Commission approve Fallbrook PUD and/or Rainbow MWD’s reorganization proposals. Approval of the alternative process was based on the Water Authority meeting certain criteria under statute and substantively means any approval of the reorganization proposals will bypass standard protest proceedings and directly proceed to a confirmation election of registered voters. The Commission separately took no action involving two related requests by the County Water Authority to suspend work on the reorganization proposals due to COVID-19 and condition any future approvals on an expanded vote in all 24 member agencies’ jurisdictions.

### DISCUSSION

This agenda item is for San Diego LAFCO to continue its discussion from May 4<sup>th</sup> and consider options to form and task a committee – technical, policy, hybrid, or otherwise – to advise the Commission on the Fallbrook PUD and Rainbow MWD reorganization proposals. Options for both the (a) composition and (b) goals and tasks have been developed by staff and done so in consultation with all four subject agencies to the reorganization proposals – Fallbrook PUD, Rainbow MWD, County Water Authority, and Eastern MWD. Specific options for both composition and tasks are detailed below.

### Committee Composition Options

San Diego LAFCO staff has developed four distinct composition options for Commission consideration. All four options are premised on a common baseline of having no less than five members that includes at least one representative of the Fallbrook PUD, Rainbow MWD, County Water Authority, Special Districts Advisory Committee, and Cities Advisory Committee. The first three options – 1a, 1b, and 1c – were developed sequentially by staff and presented to the principal agencies (Fallbrook PUD, Rainbow MWD, and Water Authority) for their initial review. A fourth option – 1d – was subsequently developed by staff in response to initial feedback from the Water Authority. All four options are shown below.

---

<sup>1</sup> In October 2019, San Diego and Riverside LAFCOs entered into an agreement to delegate all processing approvals for the Fallbrook PUD and Rainbow MWD reorganization proposals – including associated sphere amendments – to San Diego LAFCO. The agreement specifies San Diego LAFCO shall actively consult with Riverside LAFCO in processing the reorganizations and this includes providing input on all related recommendations.

**Option 1a (Baseline with Commissioners)**

Policy Focus

1. Member from Fallbrook PUD
2. Member from Rainbow MWD
3. Member from County Water Authority
4. Member from Special Districts Advisory Committee
5. Member from Cities Advisory Committee
6. Commissioner
7. Commissioner

**Option 1b (Baseline with At-Large Expertise)**

Technical Focus

1. Member from Fallbrook PUD
2. Member from Rainbow MWD
3. Member from County Water Authority
4. Member from Special Districts Advisory Committee
5. Member from Cities Advisory Committee
6. At-Large Expertise
7. At-Large Expertise

**Option 1c (Baseline with Commissioners + At-Large Expertise)**

Policy-Technical Hybrid

1. Member from Fallbrook PUD
2. Member from Rainbow MWD
3. Member from County Water Authority
4. Member from Special Districts Advisory Committee
5. Member from Cities Advisory Committee
6. Commissioner
7. Commissioner
8. At-Large Expertise
9. At-Large Expertise

**Option 1d (Baseline with Commissioners + At-Large Expertise + Others)**

Policy-Technical Hybrid with Additional Member Agency Input

1. Member from Fallbrook PUD
2. Member from Rainbow MWD
3. Member from County Water Authority
4. Member from Special Districts Advisory Committee
5. Member from Cities Advisory Committee
6. Commissioner
7. Commissioner
8. At-Large Expertise from the County of San Diego
9. At-Large Expertise from SANDAG
10. Member from Other Water Authority Member – Board or Staff
11. Member from Other Water Authority Member – Board or Staff
12. Member from Eastern MWD

## Committee Task Options

San Diego LAFCO staff has developed two distinct task options for Commission consideration. These options are premised one of two orientations: (a) providing input to the LAFCO staff or (b) providing input to both LAFCO staff and Commission. These options and corresponding tasks are detailed below.

- **Option 2a: Advisory to LAFCO Staff**

Provide real-time input to LAFCO staff with respect to the processing and evaluating the Fallbrook PUD and Rainbow MWD proposals. The Committee would continue work up and until staff determines the proposals are complete and the necessary information has been collected/analyzed and the Executive Officer proceeds to prepare a report with recommendations.

### 2a Step One: Processing the Proposals

Scale and Scope Review  
... Key Assumptions  
... Distinguishing Differences in Proposals  
... Identify Key Stakeholders  
... Input on LAFCO Consultants (Topics and Firms)  
... Legal Topics to Consider  
Input on Consultant Tasks  
Set and Revisit Timelines

---

### 2a Step Two: Evaluating the Proposals

Review Stakeholder Comments  
Input on Consultant Analysis  
Consider Standard Jurisdictional Change Factors in Statute  
Identify and Consider Local Factors  
Discuss Appropriate Measurables  
Identify and Consider Alternative Options  
Identify and Consider Potential Terms  
... Compensation  
... Infrastructure Improvements  
... Special Assessments/Taxes  
... Expanded Vote  
Continue to Mediate Any Remaining Differences  
... LAFCO Policy L-107

---

- **Option 2b: Advisory to LAFCO Staff and Commission**

Provide real-time input to LAFCO staff and the Commission with respect to the processing, evaluating, and considering the Fallbrook PUD and Rainbow MWD proposals. The Committee would formally issue its recommendation on the Executive Officer report and continue work up and until the Commission takes action on both proposals.

---

#### 2b Step One: Processing the Proposals

Scale and Scope Review

... Key Assumptions

... Distinguishing Differences in Proposals

... Identify Key Stakeholders

... Input on LAFCO Consultants (Topics and Firms)

... Legal Topics to Consider

Input on Consultant Tasks

Set and Revisit Timelines

---

#### 2b Step Two: Evaluating the Proposals

Review Stakeholder Comments

Input on Consultant Analysis

Consider Standard Jurisdictional Change Factors in Statute

Identify and Consider Local Factors

Discuss Appropriate Measurables

Identify and Consider Alternative Options

Identify and Consider Potential Terms

... Compensation

... Infrastructure Improvements

... Special Assessments/Taxes

... Expanded Vote

Continue to Mediate Any Remaining Differences

... LAFCO Policy L-107

---

#### 2b Step Three: Recommendations to the Commission

Committee Discussion and Recommendation on EO Report

... Areas of Agreement-Consensus

... Areas of Disagreement

Additional tasks as Assigned by the Commission

---

## **ANALYSIS**

San Diego LAFCO is in receipt of two related reorganization proposals from Fallbrook PUD and Rainbow MWD that generate several complex and – pertinently – controversial topics. The creation of a Committee offers a tool to help the Commission and its staff judiciously address these topics and in doing so help the principal agencies – Fallbrook PUD, Rainbow MWD, and County Water Authority – reach consensus on one or more of these topics and potentially reach a holistic agreement to reconcile existing differences. LAFCO recognizes a holistic agreement, however, may not be possible for a variety of factors. This produces a worthwhile alternative goal for the Committee to ensure real-time participation in the process and better position the Commission to ultimately act on the proposals and navigate the remaining disputes in the best interest of LAFCO law and policy. Markedly, this includes addressing both the letter and spirit of LAFCO Policy L-107 and its provision to actively address and mediate disputes in the course of considering jurisdictional changes.

With the preceding premise in mind, LAFCO staff has actively engaged the principal agencies in developing and reviewing options in creating and tasking a Committee consistent with direction provided at the May 4<sup>th</sup> meeting. This included an initial email to all three agencies' general managers on May 11<sup>th</sup> outlining various options on both composition and tasks. All three agencies responded to this initial email with substantive feedback and has been incorporated into the options being forwarded to the Commission in this agenda report. Consensus – however – has not been achieved to date with most of the agencies' attention focused on the Committee's composition. The lack of consensus on composition options, notably, is the genesis for staff expanding its initial listing of three options – 1a, 1b, and 1c – to include a fourth – 1d – and done so to address concerns by the County Water Authority and interest to include more countywide representation given the potential for impacts to expand beyond Fallbrook and Rainbow. Staff is hopeful 1d or a revision therein proves successful in generating consensus on composition and attention can decidedly turn to address task options. To this end, staff will continue discussions with the principal agencies up and to the Commission's June 1<sup>st</sup> meeting.

## **RECOMMENDATION**

It is recommended San Diego LAFCO discuss the agenda report and supplemental information to be provided by staff and consider actions to form and task a Committee to advise on the Fallbrook PUD and Rainbow MWD proposals as it deems appropriate.

## ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO and can be accomplished through a single-approved motion.

Alternative One (recommended):

Consider the recommendation of the Executive Officer as presented at the June 1<sup>st</sup> meeting and/or alternative actions as the Commission deems appropriate.

Alternative Two:

Continue the item and request additional information from staff as needed.

Alternative Three:

Take no action.

## PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for action as part of the business calendar. The following procedures are recommended in the consideration of this item:

- 1) Receive verbal presentation from staff.
- 2) Commission discussion.
- 3) Consideration of the staff recommendation.

Respectfully,



Keene Simonds  
Executive Officer

Attachments:

- 1) Executive Officer E-Mail to Principal Agencies, Dated May 11
- 2) Water Authority Response to Executive Officer, Dated May 12
- 3) Fallbrook PUD – Rainbow MWD Joint Response to Executive Officer, Dated May 18

**Blank for Photocopying**



## Simonds,Keene

---

**From:** Simonds,Keene  
**Sent:** Monday, May 11, 2020 3:15 PM  
**To:** Jack Bebee; Tom Kennedy; Kerl, Sandy  
**Subject:** SD LAFCO | Outline of Committee Composition and Task Options  
**Attachments:** CommitteeOptionsTasks\_KS-Draft\_5-11-20.pdf

Hi Jack, Tom, and Sandy –

Attached to this email is my draft outline of available options to create a committee (or working group) and suggested tasks therein to help advise SD LAFCO in taking up the Fallbrook PUD and Rainbow MWD proposals. The draft outline is being provided for your initial feedback – including preferences and/or suggested changes – ahead of further fine-tuning on my end and before forwarding a recommendation to the Commission at its June 1<sup>st</sup> meeting.

Below are a couple of key points underlying the creation and tasking of a committee...

- 1) The Commission would prefer to see Fallbrook, Rainbow and Water Authority come to an agreement and is hoping the committee can play a role. The Commission recognizes an agreement, however, may not be possible for a variety of factors. This produces an alternative goal to have the committee ensure real-time participation in the process and better position the Commission to act on the proposals and navigate the remaining disputes in the best interest of LAFCO law and policy.
- 2) I believe keeping the committee’s participants to nine or less members is preferable. What say you?
- 3) All three composition options I have listed are premised on a common denominator of having five participants representing Fallbrook, Rainbow, Water Authority, Special Districts Advisory Committee, and Cities Advisory Committee. Your input on adding others (numerators) – whether commissioners, at-large members, etc. – would be helpful.
- 4) My baseline grouping of committee participants does not include Eastern MWD. I believe the key issues the committee will explore will focus on merits/demerits of detachment from the County Water Authority and as such are outside Eastern MWD’s immediate strike zone. You may feel differently, and if so please advise.
- 5) Two of the three listed composition options have placeholders for representatives for “at-large regional agencies.” The purpose of the at-large participants is to provide additional and non-partisan balance to the committee. Two possible suggestions are the County and SANDAG. Feedback on these and other potential at-large representatives would be helpful.
- 6) Two of the options have two members from the Commission. I can go either way on this. I believe having members of the Commission on the committee is consistent with past decisions by LAFCO to utilize committees and would help ensure all parties are getting decision-level input along the way. This said, keeping Commissioners off the committee may increase scheduling flexibility and allow for a focus on more technical issues. What say you?
- 7) I am envisioning the committee having three distinct and linear tasks. The first two tasks involve providing real-time input to LAFCO staff on the processing and reviewing phases with details provided in the attachment. Third and final task would involve providing real-time input to the Commission on the EO recommendations and any associated terms.

I very much appreciate any/all input. My goal is to have an ongoing dialogue on this topic over the next week before I transition to preparing an actual agenda report that goes out on May 22<sup>nd</sup>. Thank you all, Keene.

## Committee Name

Advisory Committee on Fallbrook PUD / Rainbow MWD Detachments

## Committee Composition

Three options that build on baseline composition:

### Option 1a (Baseline with Commissioners)

1. Member from Fallbrook PUD
2. Member from Rainbow MWD
3. Member from County Water Authority
4. Member from Special Districts Advisory Committee
5. Member from Cities Advisory Committee
6. Commissioner
7. Commissioner

### Option 1b (Baseline with At-Large Regional Agency)

1. Member from Fallbrook PUD
2. Member from Rainbow MWD
3. Member from County Water Authority
4. Member from Special Districts Advisory Committee
5. Member from Cities Advisory Committee
6. At-Large Regional Agency
7. At-Large Regional Agency

### Option 1c (Baseline with Commissioners and At-Large Regional Agency)

1. Member from Fallbrook PUD
2. Member from Rainbow MWD
3. Member from County Water Authority
4. Member from Special Districts Advisory Committee
5. Member from Cities Advisory Committee
6. Commissioner
7. Commissioner
8. At-Large Regional Agency
9. At-Large Regional Agency

## Committee Purpose

Provide real-time input to Executive Officer and Commissioners with respect to a) processing, (b) evaluating, and (c) taking actions on the Fallbrook and Rainbow proposals

### Processing the Proposals

*Input to LAFCO staff*

- Identify and Engage Stakeholders
- Scale and Scope Reviews
- ... Key Assumptions

... Distinguishing Differences in Proposals  
Set and Revisit Timelines

---

### **Evaluating the Proposals**

*Input to LAFCO staff and consultants*

---

Review Stakeholder Comments  
Consider Standard Jurisdictional Change Factors (56668)  
Identify and Consider Local Factors  
Discuss Appropriate Measurables  
... Selection of Outside Consultants  
Identify and Consider Alternative Options  
Mediate Key Differences  
... L-107

---

### **Commission Taking Actions on the Proposals (Meal Results)**

*Input to the Commission on EO Recommendation*

---

Recommendation on Appropriateness  
Potential Approval Conditions  
... Rate Neutrality  
... Infrastructure Improvements  
... Special Assessments/Taxes  
... Expanded Vote

## Simonds,Keene

---

**From:** Kerl, Sandy <SKerl@sdca.org>  
**Sent:** Tuesday, May 12, 2020 7:40 PM  
**To:** Simonds,Keene  
**Subject:** RE: SD LAFCO | Outline of Committee Composition and Task Options

Keene,

On behalf of the Water Authority, thank you for your e-mail inquiry of May 11 regarding a potential Committee at San Diego LAFCO regarding the detachment applications by Fallbrook and Rainbow. I appreciate San Diego LAFCO asking for our input, and we are also encouraged by the extensive thought you and your staff have clearly put into the effort.

We have carefully gone over your questions below, and the outline you provided in the attachment. We first answer the questions you listed below, and then address the particulars of your attachment. Our comments are intended to help consider the possible benefits and detriments of various approaches. Using your numbers from the below e-mail, here are our comments.

1. I too believe that a consensual solution would be best for all parties and San Diego County. The Water Authority remains open, at all times through this process, to discussions on possible workable solutions.
2. Though there is always an issue the larger a group gets, we don't think having a particular set cap of nine is required or possible given the number of Water Authority agencies and County-wide potential impacts. As a comparison, the San Diego LAFCO process in the East County Fire Protection Committee apparently had at least 14 members. See <https://www.sdlafco.org/home/showdocument?id=414> . As we have discussed, though the Water Authority is made up of member agencies, my role as General Manager does not give me the authority to speak on their behalf in this matter. I will work with my board officers and member agencies to try to find a way for us to add a few representatives from different parts of the County. We ask that this be considered.
3. In regard to Commissioners being present, we are open to what San Diego LAFCO wants to do. However, we do note that we believe a large volume of the work of this Committee will be technical in nature. There are many issues that must be addressed, and staffs of all affected agencies may need to participate periodically, along with consultants and others with technical expertise. We think in large part this should probably be done without Commissioners, and thus we are comfortable with the 1b option you listed in the attachment (with some additions, as noted in #2 above).
4. Concur with your statement.
5. Representatives from the County and SANDAG would make sense, as there are regional issues regarding detachment.
6. As to Commissioners, this is addressed in #3 above.
7. As to your general description of Committee tasks, we agree with the general concepts you list in #7 in your e-mail, though we address some particulars of the attachment next.

In regard to the details in your attachment, as stated above we prefer the 1b option as we think that is probably more appropriate for what functionally will be a technical committee. As to the "Committee Purpose" and "Evaluating the Proposals" sections you list, we believe a key function of the Committee should be to address not just the items which

your attachment lists, but also all topical areas that may be at issue. These may be very significant. For example, to date -- because they are the applicants and have thus provided their proposals first -- San Diego LAFCO has only seen the presentations by Fallbrook/Rainbow. There are many other issues with the detachment proposals which San Diego LAFCO will need to consider. Once all issues are "on the table," we then need to decide on a process for selecting consultants so that the issues may be analyzed and presented. That process for selecting consultants will be important so that all participants and the public can be confident that San Diego LAFCO is getting independent, accurate and balanced data on which to make its ultimate decisions.

Additionally, as part of this "issue identification" process we think the Committee at some point needs to hear from attorneys on both sides as to certain legal issues that they believe are in play, and it may want to then suggest legal briefings from both sides on identified issues so that LAFCO staff and counsel are fully apprised on such matters. As one example, we are aware the Water Authority and Rainbow/Fallbrook have meaningfully different interpretations of the County Water Authority Act and the LAFCO statutes, and there needs to be a process at LAFCO where such briefing can be fully submitted and potentially inform staff recommendations -- just as consultant reports may inform on factual matters.

Your final section pertains to the Committee providing input to the LAFCO Commission. We think some serious thought needs to go into this, because many members of this "Committee" are stakeholders of one form or another, including having interconnected relationships. We do not think that this Committee should be a voting or decision-making body. Rather, we think that you and LAFCO staff learn the facts through the Committee process, and interacting with the parties, the consultants, the public commenters, the lawyers, etc., this information is then reported to the Commission and informs the final staff reports and recommendations.

In the final section, where you list "Recommendation on Appropriateness" and "Potential Approval Conditions," we assume that description is intended to include the possibility of the Commission either rejecting or approving detachment, and if the latter, constitutes a non-exclusive list of possible conditions that might be considered. If that is in error, please let me know.

Again, thank you for the opportunity to comment. I am available to answer any questions you may have.

P.S.: This e-mail is not copied to Fallbrook and Rainbow. We ask that you not send it to them until their response is also received by you. At that time if you want to share all comments from both sides, we have no objection, so long as the responses are all shared at the same time.

Thank you.

Sandy

*Sandra L. Kerl*  
*General Manager*  
(858) 522-6781  
skerl@sdcwa.org



---

**From:** Simonds,Keene <Keene.Simonds@sdcounty.ca.gov>  
**Sent:** Monday, May 11, 2020 3:15 PM

**To:** Bebee, Jack <jackb@fpud.com>; Kennedy, Tom <tkennedy@rainbowmwd.com>; Kerl, Sandy <SKerl@sdca.org>

**Subject:** SD LAFCO | Outline of Committee Composition and Task Options

Hi Jack, Tom, and Sandy –

Attached to this email is my draft outline of available options to create a committee (or working group) and suggested tasks therein to help advise SD LAFCO in taking up the Fallbrook PUD and Rainbow MWD proposals. The draft outline is being provided for your initial feedback – including preferences and/or suggested changes – ahead of further fine-tuning on my end and before forwarding a recommendation to the Commission at its June 1<sup>st</sup> meeting.

Below are a couple of key points underlying the creation and tasking of a committee...

- 1) The Commission would prefer to see Fallbrook, Rainbow and Water Authority come to an agreement and is hoping the committee can play a role. The Commission recognizes an agreement, however, may not be possible for a variety of factors. This produces an alternative goal to have the committee ensure real-time participation in the process and better position the Commission to act on the proposals and navigate the remaining disputes in the best interest of LAFCO law and policy.
- 2) I believe keeping the committee’s participants to nine or less members is preferable. What say you?
- 3) All three composition options I have listed are premised on a common denominator of having five participants representing Fallbrook, Rainbow, Water Authority, Special Districts Advisory Committee, and Cities Advisory Committee. Your input on adding others (numerators) – whether commissioners, at-large members, etc. – would be helpful.
- 4) My baseline grouping of committee participants does not include Eastern MWD. I believe the key issues the committee will explore will focus on merits/demerits of detachment from the County Water Authority and as such are outside Eastern MWD’s immediate strike zone. You may feel differently, and if so please advise.
- 5) Two of the three listed composition options have placeholders for representatives for “at-large regional agencies.” The purpose of the at-large participants is to provide additional and non-partisan balance to the committee. Two possible suggestions are the County and SANDAG. Feedback on these and other potential at-large representatives would be helpful.
- 6) Two of the options have two members from the Commission. I can go either way on this. I believe having members of the Commission on the committee is consistent with past decisions by LAFCO to utilize committees and would help ensure all parties are getting decision-level input along the way. This said, keeping Commissioners off the committee may increase scheduling flexibility and allow for a focus on more technical issues. What say you?
- 7) I am envisioning the committee having three distinct and linear tasks. The first two tasks involve providing real-time input to LAFCO staff on the processing and reviewing phases with details provided in the attachment. Third and final task would involve providing real-time input to the Commission on the EO recommendations and any associated terms.

I very much appreciate any/all input. My goal is to have an ongoing dialogue on this topic over the next week before I transition to preparing an actual agenda report that goes out on May 22<sup>nd</sup>. Thank you all, Keene.

**This email was sent by someone outside the Water Authority’s business network. Please exercise caution before opening any attachments or hyperlinks. Contact the Information Systems Service Desk(x6630) for assistance with any questionable email sources, content or requests.**

For local information and daily updates on COVID-19, please visit [www.coronavirus-sd.com](http://www.coronavirus-sd.com). To receive updates via text, send **COSD COVID19** to **468-311**.







May 18, 2020

**VIA E-MAIL**

Keene Simonds  
Executive Officer  
San Diego County Local Agency Formation Commission  
9335 Hazard Way, Suite 200  
San Diego, California 92123  
Keene.Simonds@sdcounty.ca.gov

RE: SD LAFCO | Outline of Committee Composition and Task Options

Dear Keene:

Thank you for your communication of May 11 regarding the possibility of establishing an advisory committee to review our applications and your solicitation of our input related thereto. We very much appreciate your professionalism in the processing of our applications pending before the Commission. We welcome the assistance of a committee, as we have always been open to, and indeed attempted to find opportunities for, discussing with the San Diego County Water Authority (“SDCWA”) any reasonable means of resolving potential controversies related to our applications on behalf of our ratepayers. These efforts span nearly a full year, so we look forward to this engagement.

As this committee has been proposed by the Commission, we anticipate that the involvement of this committee will negate the necessity of LAFCO subsequently engaging consultants at the expense of the applicants that might otherwise have been engaged in the normal course of processing the applications. We would hope that this Committee may reduce expense associated with processing our applications, although we are also a bit concerned that the committee process may result in further delays in processing the application. We are hopeful that these concerns will be addressed as part of the possible formation of the advisory committee—by establishing a clear purpose, goals, and a timeline for the work of the committee.

The following are our thoughts on the information you outlined in your May 11, 2020 communication.

**Tasks for the proposed Advisory Committee:**

While we agree with the tasks you have outlined, now that the Commission has recently acted to waive the usual protest proceedings under Cortese-Knox-Hertzberg in favor of proceedings under the County Water Authority Act (CWA Act), the first order of business for the advisory committee must be to develop a consensus as to the requirements for detachment as established by the CWA Act. We feel that it is important for the Committee to reach consensus on the fundamental framework established by the CWA Act as it applies to the process used by LAFCO regarding our applications. It will, after all, be difficult for the proposed committee to resolve any remaining controversies and/or issues without a baseline meeting of the minds as to the requirements of the CWA Act.

**Number of Advisory Committee Members:**

We agree that seven members would be an appropriate size for the committee.

**Composition of the Advisory Committee:**

We believe that the Commission should be represented on the proposed advisory committee for a variety of reasons, not the least of which would be to help assure that the committee remains properly focused on seeking resolution in a sequence that begins with an understanding of the application of the CWA Act to our applications before moving on to the data to be considered by the Commission and its Staff related to the affected agencies. This committee is likely to require a number of meetings and we are nearly at the mid-point of this calendar year. This process may span beyond the next scheduled election later this year. A review of the Commission roster indicates that at least four Commissioners will either be termed out of office or whose term in their elected office ends this year. For these reasons, it would be appropriate to select an individual who is in the position to be officially associated with the Commission for the duration of these proceedings. Another suggestion would be that the alternate Commissioners with substantial remaining terms would be a good pool from which to select.

In addition to a member of the Commission and members from SDCWA, Rainbow MWD, and Fallbrook PUD serving on the committee, we believe the committee would be best served by having a representative from the following entities:

- San Diego LAFCO Special Districts Advisory Committee
- Eastern Municipal Water District, and
- a representative from one of the following entities:
  - SANDAG
  - Association of California Water Agencies (ACWA), or
  - California Special Districts Association (CSDA)

With regard to Eastern, we believe that Eastern, as an affected agency, not only has standing in these proceedings but also may be a very valuable source of information that may be of

considerable use and benefit to the committee. With that said, we would defer to Eastern as to whether it would like to participate.


As you know, the term “rate neutrality” is a term of art contained in Cortese-Knox- Hertzberg, but its application applies only with respect to city incorporation proposals submitted to a LAFCO. Since our applications do not include proposed city incorporations, and since neither the term nor the concept appear in the CWA Act—the Act under which our proposals will now be processed as a result of the Commission’s recent approval of the request by SDCWA, we strongly believe that this term should not be used in this process in order to avoid any confusion or misunderstanding.

Finally, we feel it is important that the proposed advisory committee be given clear instructions as to the desired work product from its efforts. We also feel that the proposed committee’s work product should only include recommendations which the Committee has reached by consensus, as it would be undesirable to have a situation where the work product lays out competing conclusions of its members. Even though SDCWA, to date, has not provided either of our agencies with any specifics (despite repeated requests), the inference we draw from SDCWA’s actions to date is that it opposes our proposed applications. Should the committee not be able to reach consensus, we will be right where we are now. If the Committee cannot reach consensus, the work product may not be helpful to the Commission in its decisions making. It could actually make the Commission’s job harder than it already is.

Should you have any questions regarding these points, as always please let us know as we endeavor to keep these proceedings moving for the benefit of our ratepayers.

Sincerely,

  
\_\_\_\_\_  
Tom Kennedy  
General Manager  
Rainbow Municipal Water District

  
\_\_\_\_\_  
Jack Bebee  
General Manager  
Fallbrook Public Utility District

cc: Sandy Kerl, SDCWA General Manager

**Blank for Photocopying**