



November 19, 2020

Mr. Keene Simonds
Executive Officer
San Diego County LAFCO
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San Diego, CA 92123
(Keene.Simonds@sdcounty.ca.gov)

Subject: Rainbow Municipal Water District and Fallbrook Public Utility District Reorganization Applications

Dear Mr. Simonds:

On September 18, 2020, the San Diego County Water Authority (SDCWA) released a document detailing its combined response to the LAFCO applications submitted by Rainbow Municipal Water District (RMWD) and Fallbrook Public Utility District (FPUD) for a reorganization that would provide for their detachment from SDCWA and annexation into Eastern Municipal Water District (EMWD).

In its combined response, SDCWA discusses a range of topics that include EMWD's water supply reliability, services that would be provided to FPUD and RMWD by EMWD, and how FPUD and RMWD interests would be represented as EMWD customers. The SDCWA's combined response also included a list of questions addressed to EMWD regarding the proposed reorganization.

Please find attached an EMWD Technical Memorandum, dated November 19, 2020, which provides supplemental information, clarification and key context to the items noted above and statements made by SDCWA in its combined response submitted to LAFCO.

Board of Directors

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If you have any questions or require additional information, please contact Nick Kanetis at kanetisn@emwd.org or (951) 928 6161.

Sincerely,



Paul D. Jones II, P.E.
General Manager



Nick Kanetis, P.E.
Deputy General Manager

Enclosure (1)

c: Sandra Kerl, General Manager, San Diego County Water Authority
Tom Kennedy, General Manager, Rainbow Municipal Water District
Jack Bebee, General Manager, Fallbrook Public Utility District

TECHNICAL MEMORANDUM

Water Resources and Facilities Planning Department



DATE: November 19, 2020

PREPARED FOR: San Diego County Local Agency Formation Commission

PREPARED BY: Eastern Municipal Water District

SUBJECT: Response to San Diego County Water Authority Comments

INTRODUCTION

On September 18th, 2020, the San Diego County Water Authority (SDCWA) released a document detailing its combined response to the applications submitted by the Fallbrook Public Utility District (FPUD) and the Rainbow Municipal Water District (RMWD) for a reorganization that would allow FPUD and RMWD to detach from the SDCWA and become wholesale customers of the Eastern Municipal Water District (EMWD). In their combined response, the SDCWA discusses a range of topics that include EMWD’s water supply reliability, services that would be provided to FPUD and RMWD by EMWD, and how FPUD and RMWD interests would be represented as EMWD customers. The SDCWA’s combined response document also contained a list of questions addressed to EMWD regarding the proposed reorganization.

The goal of this technical memorandum is to provide supplemental information and key context to points raised by SDCWA regarding EMWD’s water supply reliability, discuss provisions for FPUD and RMWD’s potential representation on EMWD’s Board of Directors, and detail services that EMWD provides to its wholesale customers. This technical memorandum will also provide a response to the questions for EMWD in Section 8 of the SDCWA document.

WATER SUPPLY RELIABILITY

The SDCWA’s combined response document misrepresents an internal analysis completed by EMWD in 2018 titled “Scenario Planning for Water Supply Uncertainties” by only citing a hypothetical worst-case scenario contained in the analysis associated with sustained “Mega-Drought” conditions. The SDCWA document omits results of the comprehensive analysis that evaluated multiple adaptive management strategies and demonstrated EMWD’s projected 93 – 100% water supply reliability, even in a potential “Mega-Drought” condition.

To assess the “Mega-Drought” condition, EMWD assumed a range of 10-20% reduction in both imported water supplies and local groundwater supplies. These reductions were applied hypothetically to simulate multiple dry years and do not reflect an assessment of MWD’s or EMWD’s actual water supply reliability. For example, in Section 8 (page 83) of the document, the SDCWA notes that:

“...Eastern staff states that from 2020 – 2040 between one and eight years is a “dry” year that will cause a supply disruption of ‘loss of 10 – 20% of imported water supplies from MWD.’ It then states that MWD supplies will not be fully reliable until 2036 when (it was assumed) the former California Water Fix project would be complete... The simple truth, as admitted by Eastern here, is that MWD imported supplies are not fully reliable...”

This statement was never made by EMWD staff nor does it exist in the presentation referenced by SDCWA. The presentation describes the assumptions for the hypothetical worst-case

scenario, including those associated with probability of a dry year and associated supply disruptions, as indicated by the title of Slide 13 “Criteria for Hypothetical ‘Worst-Case’ Scenario”.

SDCWA also appears to imply that EMWD’s 2018 study indicates that EMWD’s retail service may not be fully reliable, claiming multiple times in Section 8 (p. 131, 142) that:

“Under certain scenarios there was 48% frequency of a supply shortage in 2035... it should be noted wholesale demands were not even considered in EMWD’s comprehensive scenario planning.”

The “certain scenarios” referenced above again reflect a hypothetical scenario of worst-case conditions that was constructed for the sole purpose of serving as a point of reference for comparing the effectiveness of EMWD supply development and conservation programs under theoretical mega-drought conditions. The scenario does not represent EMWD’s actual planned supply portfolio, approved capital improvement program, or even a business-as-usual policy.

The fundamental assumptions of this hypothetical worst-case scenario include extreme and improbable conditions not acknowledged in the SDCWA citations, as explained below:

1. **Hypothetical Condition used in Worst-Case Scenario Assumption:** No new local supplies available to EMWD beyond those existing in 2018. Excluded projects that were under construction at the time.

Actual Current and/or Planned Future Condition: This is an unrealistic condition as EMWD would not abandon projects in construction and EMWD has continued its investment in local supplies. Major local supply projects that are underway, but not assumed in the hypothetical scenario cited by SDCWA, include:

- a. The Perris II Desalter – a brackish groundwater desalination facility that is expected to yield 5,400 acre-feet per year (AFY) beginning in 2021.
 - b. The Perris North Basin Groundwater Contamination Prevention and Remediation Program – which will treat groundwater pumped from the Perris North/Moreno Valley vicinity to drinking water standards and is expected to yield approximately 6,450 AFY beginning in 2023.
 - c. Purified Water Replenishment – an indirect potable reuse project, Phase I of which is expected to yield 4,000 AFY beginning in 2024. Later phases of this project will increase the supply to a cumulative total of up to 15,000 AFY.
2. **Hypothetical Condition used in Worst-Case Scenario Assumption:** During dry years, MWD would immediately declare an allocation ranging from 10-20%, and EMWD would have no imported water available beyond its allocated volume.

Actual Current and/or Planned Future Condition: MWD has made significant investments in its water storage infrastructure to buffer member agencies against major supply disruptions or shortages. In the event MWD’s base imported supplies are reduced, MWD has the authority to implement its Water Supply Allocation Plan. An MWD allocation is not the same as an MWD shortage - should EMWD exceed its supplies allocated under MWD’s Water Supply Allocation Plan, MWD could continue to provide water to EMWD, but at a penalty rate to disincentivize inefficient water use. In

addition, MWD historically has not declared an allocation during each dry year, as is assumed in the hypothetical scenario.

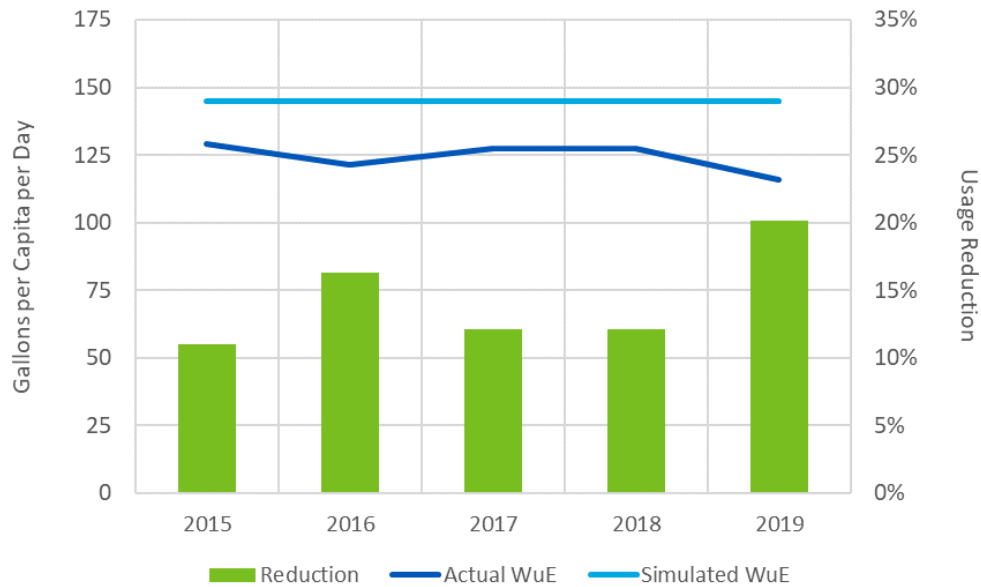
3. **Hypothetical Condition used in Worst-Case Scenario Assumption:** During dry years, EMWD's local groundwater supply capacity would be reduced 10-20%.

Actual Current and/or Planned Future Condition: EMWD's groundwater supplies are managed under two groundwater management plans. The Hemet/San Jacinto Management Plan Area (where the majority of EMWD's groundwater production occurs) is adjudicated, and groundwater production is limited by the safe yield of its collective groundwater management zones. EMWD has an adjusted base production right in this management plan area. Historically, EMWD has not chosen to produce its full rights in this area and as of 2020, has over 25,000 acre-feet (AF) of carry over credits. As a result, EMWD does not anticipate significant reductions in its groundwater supply in this area, even under dry year conditions. The remainder of EMWD's groundwater is produced from the West San Jacinto Groundwater Management Plan area, where EMWD is the Groundwater Sustainability Agency and is currently developing a Groundwater Sustainability Plan (GSP). Groundwater pumping in this area has been limited due to water quality issues. Groundwater levels rose in this area, even during the recent drought emergency. EMWD plans to increase its groundwater production in this area through its Perris North Basin Groundwater Contamination Prevention and Remediation Program and expansion of the brackish water desalination facilities.

4. **Hypothetical Condition used in Worst-Case Scenario Assumption:** EMWD's water use efficiency would begin at roughly 145 gallons per capita per day (gpcd) in 2020 and improve to approximately 137 gpcd in 2040. Per capita demands were simulated to increase from these levels during the initial years of a multi-year drought, while only a limited amount of conservation would occur if multiple consecutive dry years were encountered.

Actual Current and/or Planned Future Condition: EMWD's robust water conservation program has maintained the gains in water use efficiency achieved during the 2015 drought emergency. In 2015, EMWD's retail water use efficiency was 129 gpcd. EMWD's water use efficiency was 127 gpcd in 2018 and was 115 gpcd in 2019 (which was a wet year). A comparison of the simulated 2020 water use efficiency against EMWD's recent actual water use efficiency is shown below in Figure 1.

Figure 1: EMWD Water Use Efficiency (WuE)



These assumptions mean that the results referenced by SDCWA are invalid for use as a representation of future conditions in EMWD's service area. Scenarios that represent actual EMWD project implementation and adaptive management strategies and include the addition of planned projects show a supply reliability of 93% and 100% for 2035 and 2040 respectively, even under a hypothetical mega-drought condition where dry years occur in 8 out of 10 years (shown on Slide 21 of the presentation referenced by SDCWA). In 2035, even a modest conservation effort of 5% increases this supply reliability to 99%. For comparison, EMWD's current per capita water use is approximately 15% lower than the demands assumed in the 2018 analysis.

FPUD AND RMWD GOVERNANCE / REPRESENTATION

EMWD's governing body is a five-member board of directors, each of whom represents a geographic division that is equally apportioned by population. The boundaries of these geographic divisions are adjusted after each census, as provided for in Section 71540 of the Water Code, and Section 22000 of the Elections Code, which states that:

Each district required by its authorizing act to adjust division boundaries pursuant to this section shall, by resolution, after each federal decennial census, and using that census as a basis, adjust the boundaries of any divisions so that the divisions are, as far as practicable, equal in population and in compliance with Section 10301 of Title 52 of the United States Code, as amended, to the extent those provisions apply. In adjusting the boundaries of the divisions, the board may give consideration to the following factors: (1) topography, (2) geography, (3) cohesiveness, contiguity, integrity, and compactness of territory, and (4) community of interests of the division.

Should FPUD and RMWD's applications for reorganization be approved, EMWD's director divisions would be adjusted to account for the expanded service area. As the respective service areas of FPUD and RMWD are immediately adjacent to one another, it is likely that such service areas would be located within the same division, from which a director would be elected for a

four-year term. Terms on EMWD's Board of Directors are staggered to ensure continuity, and elections are held in at least two divisions every two years.

The Water Code does provide for the possibility of increasing the number of directors on a municipal water district's board. As stated in Section 71250.1, subdivision (a) of the Water Code:

Notwithstanding Section 71250, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single municipal water district may, pursuant to subdivisions (k) and (n) of Section 56886 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

In the event that the proposed reorganization is approved and the local agency formation commission elects to increase the number of directors, division boundaries would be adjusted using information from the most recent census, under Section 71540 of the Water Code and Section 22000 of the Elections Code cited earlier in this memorandum.

In its combined response document, SDCWA appears to assert that FPUD's and RMWD's interests would not be represented under EMWD in the event the proposed reorganization is approved, stating in Section 5 (page 74) that:

"Currently, both Fallbrook and Rainbow hold seats on the Water Authority Board of Directors. They thus have direct input all into local and regional Water Authority actions that affect them... are [Fallbrook and Rainbow] to be given Board seats at Eastern, as they have at the Water Authority? Or are the interests of Rainbow and Fallbrook ratepayers be diluted at Eastern by way of merging them in with large numbers of ratepayers in other portions of Eastern?"

However, the adjustment of director divisions subsequent to a reorganization (whether by the redrawing of existing division boundaries or a combination of both the addition of new divisions and the revision of existing ones) would give FPUD and RMWD customers the same proportional representation on EMWD's Board of Directors as all other EMWD ratepayers. Furthermore, it should be noted that FPUD's and RMWD's current representation on SDCWA's Board of Directors is comprised of appointed representatives. Should the proposed reorganization be approved this would change to representatives elected to EMWD's Board of Directors by direct vote.

Please also note that should the proposed reorganization be approved, FPUD and RMWD would retain their own five member elected boards for the continued governance of their respective retail systems.

MWD GOVERNANCE

SDCWA also asserts in its combined response document that the reorganization would adversely impact the interests of San Diego County with respect to the governance of MWD. SDCWA states in Section 5 (page 68) that:

"With the annexation of Fallbrook and Rainbow, Eastern's weighted voting rights at MWD would immediately increase by about 10.2% (a gain of 0.28% voting rights at MWD, going from 2.75% to

3.03%), at the direct expense of the Water Authority. The Water Authority would lose about 1.7% of its vote entitlement at MWD (reducing from 17.34% to 17.05%). This would mean that political influence at MWD could meaningfully shift from the Water Authority to Eastern on voting issues as to which they disagree...”

As acknowledged by SDCWA, the actual shift in voting rights is 0.28% - which is not only minimal, but according to MWD, would not result in a loss of seats on the MWD board for SDCWA, or any gain for EMWD. Accordingly, SDCWA appears to be inflating the impact of the potential reorganization, as representation for EMWD and SDCWA on the MWD Board of Directors would be unchanged. From the perspective of San Diego County as a whole, representation on the MWD Board of Directors would also remain unchanged.

EMWD SERVICES PROVIDED TO FPUD AND RMWD

EMWD provides water supplies on a wholesale basis to the cities of Hemet, San Jacinto and Perris; Lake Hemet Municipal Water District; Nuevo Water Company; Rancho California Water District; and Western Municipal Water District. EMWD provides a number of services to these wholesale customers beyond its core water, wastewater, and recycled water services. These same services would be extended to FPUD and RMWD.

Wholesale customers can participate in:

- EMWD’s educational programs, which include facility tours, water education materials, and a range of contests
- Interagency legislative groups, which are monthly meetings of regional agency general managers and staff to discuss priority legislative and policy initiatives
- Regional campaigns, including print, digital, and regional display advertising, shared social media posts, and partnered videos. Prior campaigns include:
 - SewerSmart campaign and messaging
 - Drought campaign and messaging
 - Value of Water/Reliability Campaign (water quality and reliability)
- Quarterly ad hoc meetings, which include time for Board members of EMWD and member agencies to discuss topics of mutual interest
- Conservation programs, which include EMWD rebates, water use efficiency classes, home conservation audits, and access to MWD’s conservation rebates
- Community programs and events including EMWD’s Water Leaders Academy, Water Task Force, and a Regional Water Festival

SDCWA QUESTIONS FOR EMWD

As discussed above, SDCWA’s combined response document contained a list of questions addressed to EMWD regarding the proposed reorganization. EMWD’s responses to such questions are as follows:

1. **How will Fallbrook and Rainbow be represented at Eastern? Will they each have seats on the Eastern Board as they do at the Water Authority? Will a new Eastern District be created for them? If not, what district will they go into?**
EMWD would adjust its existing director divisions to incorporate FPUD and RMWD using census data. The divisions would be roughly equal in population, allowing for

proportional representation of ratepayer interests. Additional details may be found in the “FPUD and RMWD Governance/Representation” portion of this memorandum.

2. **Other than via MWD pipes, does Eastern have any water infrastructure connections to either Rainbow or Fallbrook's water delivery systems? Are they any plans for such connections?**

EMWD does not currently own connections to RMWD's or FPUD's water delivery systems. However, MWD's Administrative Code allows MWD pipelines to be isolated in an emergency for EMWD's use in conveying water supplies to RMWD or FPUD. The construction of additional infrastructure to RMWD and/or FPUD would be subject to the execution of subsequent agreements between EMWD and RMWD or FPUD, respectively.

3. **If Eastern were to try and move its own non-MWD water through MWD pipes to Rainbow or Fallbrook, would Eastern have to pay an MWD wheeling charge?**

EMWD currently has no plans to move non-MWD water through MWD pipes to FPUD or RMWD. However, should FPUD or RMWD hypothetically choose to partner with EMWD in the development of a local supply project, EMWD would potentially deliver local supplies to FPUD or RMWD on an in-lieu basis. To complete an in-lieu delivery, EMWD would physically take less MWD water and utilize the new local supply within its retail service area. FPUD or RMWD would physically receive an increased amount of MWD water (corresponding to EMWD's decrease). From a financial perspective, however, FPUD or RMWD would be receiving the MWD water in-lieu of the new local supply and would not pay the MWD full-service charge or the MWD wheeling charge for this water. Instead, FPUD and RMWD would pay a rate to EMWD that would be determined by mutual agreement prior to the development of the local supply.

From a reliability perspective, if MWD were to experience an outage or similar event that temporarily reduces supplies available to EMWD, deliveries to FPUD and RMWD may be made using a similar concept – EMWD could increase production from its local supply sources, allowing FPUD and RMWD to take MWD deliveries without interruption.

4. **If Eastern were to try and move its own non-MWD water through MWD pipes to Rainbow or Fallbrook, would Rainbow/Fallbrook have to pay an Eastern transportation charge, and if so, what would it be?**

No, EMWD's wheeling rate would not be applicable in this scenario. As discussed in Question No. 3, EMWD currently has no plans to move non-MWD water through MWD pipes to FPUD or RMWD. However, if FPUD and RMWD did partner with EMWD in a local supply project, EMWD would potentially make deliveries on an in-lieu basis and no transportation charge would apply.

5. **Other than MWD water, what services do Fallbrook and Rainbow receive from Eastern for their \$11 per acre-foot charge?**

FPUD and RMWD would have access to EMWD's education programs, legislative groups, regional campaigns, ad hoc board meetings, conservation programs, other community programs and events and, as discussed in Questions No. 3 and 4 above, the opportunity to partner with EMWD on potential local water supply projects. Additional details may be found in the “EMWD Services Provided to FPUD and RMWD” portion of this memorandum.

6. **What additional services could Eastern potentially provide to Fallbrook and Rainbow, other than the proposed MWD service for the \$11 per acre-foot charge? What would the charges be for those additional services?**

Beyond the services discussed in the response to Question No. 5, any additional projects would be subject to an agreement between EMWD and the respective agency. This could include local supply development projects. Costs would be determined based on the scope of the agreement.

7. **Please provide all communications Eastern has had with MWD related to the proposed detachments and annexations.**

EMWD's communications with MWD relating to the proposed detachments and annexations have been for the purpose of identifying and clarifying potential administrative issues that may arise in the event that the reorganization proposal is approved. These discussions have been summarized in documentation that has already been released by EMWD and MWD to SDLAFCO.

8. **Since MWD preferential rights do not travel with Rainbow and Fallbrook to Eastern, should Eastern need to use its preferential rights at MWD, would they be used for Rainbow and/or Fallbrook, or just for Eastern's retail customers?**

While preferential rights do not travel with RMWD and FPUD to EMWD, should a reorganization occur, EMWD and SDCWA would continue to receive an annual update to their preferential rights calculation, which is based on member agencies' historical payments and tax assessments to MWD. Furthermore, MWD has never limited member agencies' ability to purchase water according to their preferential rights.

9. **What specific ad valorem taxes does Eastern believe the Water Authority should receive after the detachments and annexations?**

EMWD does not have an opinion regarding ad valorem taxes that SDCWA should or should not receive should the proposed reorganization occur. However, it is anticipated that the existing ad valorem tax of 0.0035% that is collected on customers' property tax bills and received by MWD would continue as usual, based on property valuations as determined by the San Diego County Tax Assessor.