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December 17, 2020

Susan Tatayon
Delta Stewardship Council
980 Ninth Street
Suite 1500
Sacramento, CA 95814

Dear Chair Tatayon:

The Fallbrook Public Utility District (FPUD) has submitted an application to the San Diego Local Agency Formation Commission (LAFCO) for an application to change our wholesale water supplier from the San Diego County Water Authority to Eastern Municipal Water District (the Reorganization).

On September 17, 2020, Michael George, the Bay Delta Watermaster wrote an email to Sandy Kerl of the San Diego County Water Authority (SDCWA) which was submitted as part of the LAFCO proceeding. The email was the result of a series of email correspondence initiated by Ms. Kerl and/or other SDCWA representatives. In the September 17, 2020 email, Mr. George alleged the Reorganization could potentially not be in compliance with the Delta Plan and requirement for agencies to reduce reliance on the Delta.

We have completed the attached detailed analysis based on Water Code Section 85021, the Council adopted Delta Plan, the 2018 Staff Determination of WaterFix consistency with WR P1 and the recent guidance provided by the Department of Water Resources on assessing reduced reliance included in the Draft Urban Water Management Plan (UWMP) Guidebook 2020. Our analysis clearly shows that the proposed Reorganization will not impact the significant steps our agency and other southern California water suppliers have taken to reduce reliance on the Delta. FPUD itself will reduce its reliance on the Delta by over 45% from our estimated historic baseline by 2025. Although not as comprehensive as the analysis that will be done in our 2020 UWMP we believe the results of this analysis are consistent with state guidelines and clearly demonstrate that the proposed Reorganization, if approved by LAFCO is consistent with and will not violate Water Code section 85021 or the Delta Plan.

If there are any remaining concerns or comments please let us know, otherwise we will consider that we have fully addressed the preliminary concerns raised by Mr. George.

Sincerely,

Jack Bebee
General Manager

cc: Michael George, Bay Delta Watermaster
Jessica Pearson, Executive Director Delta Stewardship Council
Sandy Kerl, General Manager – SDCWA,
Nick Kanetis, Deputy General Manager – EMWD
Jeff Kightlinger, General Manager MWD
Keene Simonds, Executive Officer – LAFCO



Analysis of Reduced Reliance on Delta Under Proposed Reorganization

DECEMBER 2020

EXECUTIVE SUMMARY

1. Introduction

The San Diego County Water Authority (SDCWA) has raised the question of whether approval by the San Diego Local Agency Formation Commission (LAFCO) of Fallbrook Public Utility District's application for detachment from SDCWA and annexation into the Eastern Municipal Water District (EMWD) (the Reorganization) would result in increased reliance by FPUD, EMWD and the Metropolitan Water District of Southern California (MWD) on San Francisco-Sacramento Bay Delta (Delta) supplies in contradiction of state policy, and statutory and regulatory law. **This Memorandum will demonstrate that approval of the Reorganization will not result in increased reliance on the Delta by FPUD, EMWD and/or MWD, all of which will continue to reduce their reliance on the Delta in accordance with state policy, statutes, and regulations. Reorganization will Result in continued contributions to reduced reliance in compliance with California Law.**

The 2009 Sacramento-San Joaquin Delta Reform Act (Water Code section 85000 *et seq.*), (Delta Reform Act) created a system of state policy, Delta governance, comprehensive planning, scientific research, and a regulatory structure to achieve the legislatively mandated co-equal goals of water supply reliability and Delta ecosystem restoration which is, in part, codified in the California Water Code¹ as Section 85021. Section 85021 states the following:

The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.

(Added by Stats. 2009, 7th Ex. Sess., Ch. 5, Sec. 39. (SB 1 7x) Effective February 3, 2010.)

The "region that depends on water from the Delta watershed," for purposes of Section 85021, and for purpose of the Reorganization, is the MWD service area within which FPUD, EMWD and SDCWA are all located. As documented in the 2015 Urban Water Management Plans (UWMP) for FPUD, MWD and EMWD, all three agencies are making the investments required by Section 85021 in order to improve regional self-reliance.

FPUD's investments in self-reliance include:

- Reduction in per capita water use of 27% below its SBX7-7 state mandated 2020 conservation target. FY 2020 savings is 204 gallons per capita day (GPCD) or 45% below its 2020 target.
- Expansion of existing recycled water use of approximately 600 acre feet per year (AFY), and implementation of a system expansion to try and double usage by 2025.
- Construction of the Santa Margarita River Conjunctive Use Project (SMR CUP), a regional partnership with Marine Corps Base Camp Pendleton (MCBCP) that will create 3,100 AFY of new

¹ All further statutory references in the text are to the California Water Code unless otherwise specified.

local supplies using advanced water treatment technology. Recent analysis by MCBCP has informed FPUD that average year yield from SMR CUP will increase by approximately 1,100 AFY to a total average yield of 4,200 AFY. This would account for approximately 40% of FPUD's water supply need.

As demonstrated in its 2015 UWMP, EMWD has been actively and will continue to aggressively contribute to regional self-reliance through the following:

- Reduction in per capita water use 27% below its 2020 conservation target. FY 2020 savings are 45% below the 2020 SBX 7-7 Target.
- Expansion of local water supplies (45% of EMWD supplies are local water supplies consisting of groundwater, recycled water, and brackish groundwater recovery). EMWD plans to expand its local supply by up to an additional 72,000 acre feet over the next 5-20 years.

MWD, as the regional wholesaler and purveyor of State Water Project (SWP) supplies from the Delta, benefits from the contributions its member agencies (like SDCWA and EMWD) and sub-agencies (like FPUD) make to improve regional self-reliance. MWD also makes significant financial investments on its own in all the strategies outlined in Section 85021. These include:

- Investment in Water Use Efficiency: As noted in MWD's 2015 UWMP MWD has invested over \$495 Million over the last 25 years and will conserve more than one million acre feet by 2025.
- Investment in Advanced Water Technologies: Through its Foundational Actions Funding Program, MWD provides grant funding to agencies to encourage new treatment technologies.
- Investment in Recycled Water: Through its Local Resources Program (LRP), MWD has invested over \$500 Million in local supply projects that produce almost 300,000 Acre Feet annually.
- Investment in Local and Regional Water Supply Projects: MWD is partnering with the Sanitation Districts of Los Angeles County on up to a 150,000 acre foot potable reuse project. In November 2020, the MWD Board approved beginning environmental analysis.

➤ **CONCLUSION**

FPUD, EMWD and MWD are in compliance with Section 85021 prior to, and will be in compliance following, Reorganization, if approved by LAFCO.

2. The Amount of SWP Water Used by FPUD will not Increase as a Result of Reorganization

In a technical report prepared by EMWD and included in FPUD's application for Reorganization to LAFCO, EMWD concluded that under Reorganization FPUD and Rainbow Municipal Water District (RMWD) would continue to receive the same mix of SWP and Colorado River supplies they would receive as a member agency of SDCWA. This is an accurate statement.

MWD operates its six county water treatment and distribution system serving over 19 million southern Californians in five different and distinct service areas. SDCWA, EMWD and Western Municipal Water District (WMWD) are part of MWD's Skinner Service Area. MWD combines water from its SWP and Colorado River supplies to serve the total need for water in the Skinner Service Area² and pursuant to

²In FY 2020 MWD delivered 410,500 acre feet (AF) of water in the Skinner Service Area. Total water deliveries to

MWD Board policy to reduce the higher salinity of Colorado River water. Contrary to the impression given by SDCWA, MWD does not operate its system to separately deliver SDCWA's Quantification Settlement Agreement (QSA) supplies to San Diego County.

Reducing the salinity of Colorado River water delivered to San Diego County has been long advocated and supported by SDCWA as a cost savings benefit to consumers and to promote local water recycling projects. The continued importance to SDCWA of reduced salinity of Colorado River water is demonstrated in its recent *Regional Colorado River Conveyance Study (RCS)*. The RCS identified large scale desalination treatment facilities to reduce higher Colorado River water salinity to a level equivalent with the MWD Board's blending policy. Estimated capital costs for those facilities was between \$600-\$800 million with annual operating costs in excess of \$40 million.

➤ **CONCLUSION**

The use of SWP water to meet salinity requirements is critical for the entire Skinner Service Area. The 2003 Amended and Restated SDCWA-MWD Exchange Agreement recognizes the dependence by SDCWA to deliver exchange water through MWD facilities and MWD's need to operate those facilities as an integrated system. The Reorganization will not increase FPUD's use of SWP supplies.

3. FPUD and MWD Reliance on the Delta will not Increase as a Result of Reorganization

The 2009 Delta Reform Act established the Delta Stewardship Council and empowered the Council to develop a comprehensive Delta Plan to achieve the co-equal goals of water supply reliability and Delta ecosystem restoration. The Delta Plan policy on water reliability, WR P1, has the force of a regulation and details the requirements a covered action³ must meet to document consistency with reduced reliance on the Delta. UWMPs are the foundational document used to identify reduced reliance. WR P1 (C) is the operative provision of the Policy:

(C) Included in the Plan, commencing in 2015, the expected outcome for measurable reduction in Delta reliance and improvement in regional self-reliance. The expected outcome for measurable reduction in Delta reliance and improvement in regional self-reliance shall be reported in the Plan as the reduction in the amount of water used, or in the percentage of water used, from the Delta watershed.⁴

Although the proposed Reorganization is not a covered action, the California Department of Water Resources (DWR) Draft Urban Water Management Plan Guidebook for 2020 UWMPs now being finalized (Draft DWR Guidebook) identifies the following analytical steps to demonstrate consistency with WR P1:

- Setting a Baseline
- Change in Delivery of Delta Water
- UWMP WR P1 Consistency Reporting

SDCWA were 340,900 AF of which 259,800 AF was Quantification Settlement Agreement (QSA) water delivered through the SDCWA-MWD Exchange Agreement. Source: MWD.

³ A "covered action" is a physical improvement in the Delta that must file a notice of consistency with the Delta Plan. (CA Water Code § 85057.5.)

⁴ The Delta Plan, Exhibit G (Achieving Reduced Reliance on the Delta and Improved Regional Self-Reliance), Page G-2, citing to 23 CCR § 5003 (c)(1)(C) .

DWR emphasizes the importance of the historic baseline as “[u]sing the same, fixed baseline in each UWMP allows Suppliers to have a consistent value with which current and future Delta water use can be compared.” DWR suggests 2010 be used as the historic Baseline to measure against current and future reductions in Delta water supplies. According to DWR consistency with WR P1 will be determined as an annual number that reflects a hydrologically average weather condition and demonstrates the overall trend of reduced reliance reflected as either a reduction in acre feet used or a percentage decline.

FPUD and other water suppliers will conduct a comprehensive WR P1 consistency analysis as part of preparation of a 2020 UWMP. However, based on the Draft DWR Guidebook and historic UWMPs, a simplified and preliminary analysis indicative of the future trend under Reorganization can be conducted that establishes FPUD and MWD reliance on Delta supplies as a historical baseline and in the future year 2025.

Establishing MWD Regional Self-Reliance on the Delta 2010 vs 2025

| | <u>2010</u> | <u>2025</u> |
|--|------------------|------------------|
| <u>Total MWD Demand Before Conservation (Acre Feet)</u> | 5,520,000 | 5,393,000 |
| <u>Water Conservation Savings</u> | 955,000 | 1,127,000 |
| <u>Local Supplies</u> | 2,223,000 | 1,349,000 |
| <u>SDCWA QSA Supplies</u> | 170,000 | 282,000 |
| <u>Demand On MWD</u> | 2,262,000 | 1,635,000 |
| <u>Colorado River</u> | 711,000 | 686,000 |
| <u>State Water Project</u> | 1,551,000 | 949,000 |
| <u>Percent of MWD Supply from Delta</u> | 69% | 58% |
| <u>Percent Reliance on Delta to Total MWD Service Area Supply</u> | 28% | 18% |

Establishing FPUD Reduced Reliance on the Delta 2010 vs 2025 under Reorganization

| | <u>FPUD Historic Baseline 2010⁵</u> | <u>Projected FPUD 2025</u> | <u>Change in Percentage Increase /(Decrease)</u> |
|---|---|-----------------------------------|---|
| Percent Reliance Using Total MWD Service Area Supply | 20% | 11% | (9%) |

⁵ Takes into account SDCWA 2010 QSA supplies and FPUD water recycling per SDCWA and FPUD 2010 UWMPs.

| | | | |
|--|--------------|--------------|----------------|
| Amount of Delta Supply Used as Total MWD Service Area Supply (AF) | 3,359 | 1,383 | (1,976) |
| Percent Reliance Using Only MWD Supply from Delta | 50% | 36% | (14%) |
| Amount of Delta Supply Using Only MWD Supply from Delta (AF) | 8,278 | 4,460 | (3,818) |

The above tables clearly demonstrate a reduction of reliance on the Delta by both MWD and FPUD after Reorganization from the historic baseline. FPUD reduced reliance on the Delta is demonstrated by using either the assumption that MWD reliance is determined by the Regional self-reliance of its entire service area or whether as SDCWA advocates MWD’s reliance is based solely on its on its mix of SWP and Colorado River supplies. In fact, because of its implementation of a new local water supply (SMR CUP) FPUD is reducing its reliance on the Delta by at least 45% as a percentage of reliance between the 2010 baseline and 2025 under Reorganization. Stated another way, FPUD is reducing the amount of SWP water expressed in acre feet by greater than 50% from its historic Baseline.

➤ **CONCLUSION**

Under state law (statutory, regulations and guidance) for conducting an analysis of reduced reliance both MWD and FPUD will continue to reduce their reliance on the Delta under Reorganization consistent with Delta Plan Policy WR P1.

EXECUTIVE SUMMARY CONCLUSION

The proposed Reorganization will not result in increased reliance on the Delta by either MWD or FPUD, and approval of the Reorganization does not contravene state policy. Under Reorganization the following statements will be accurate:

- FPUD, EMWD and MWD will continue to contribute to regional self-reliance in compliance with Section 85021
- Reorganization will not increase the use of SWP water in the Skinner Service Area, and MWD will continue to operate the system to meet member agency demand and water quality requirements consistent with the SDCWA-MWD Exchange Agreement
- All water suppliers in the MWD service area will contribute to reduced reliance. In addition, under Reorganization FPUD, individually, will continue to reduce its reliance on the Delta consistent with Delta Plan WR P1.

ANALYSIS

I. INTRODUCTION

In its September 18, 2020 Combined Response to Reorganization Applications by Fallbrook/Rainbow, (Combined Response) SDCWA claims that approval of the Reorganization (consisting of FPUD's detachment from SDCWA and annexation into EMWD) will result in increased dependence by FPUD on imported water from the San Francisco-Sacramento Bay Delta (Delta). SDCWA claims that this increased dependence on Delta supplies will be due to an increased demand by MWD on the State Water Project (SWP) if LAFCO approves the Reorganization. SDCWA contends that approval of the Reorganization is in contradiction of the 2009 Delta Reform Act and the policy of the State of California to reduce reliance on the Delta.

These claims have no merit and cannot be supported by the actual language and the intent of the 2009 Delta Reform Act and the foundational information supporting its implementation. SDCWA's arguments and the supporting documentation it provided to LAFCO on this claim offers no substantial evidence as justification, argues multiple conflicting points and is at odds with the official documents of the State of California governing reduced reliance it cites. It is not up to SDCWA to define reduced reliance and how to determine it. Rather, there is an official process and method provided for in detail by state agencies with jurisdiction over that determination. In this analysis FPUD provides LAFCO and other stakeholders substantive evidence from official documents and reports that the Reorganization is in compliance with the letter and spirit of the 2009 Delta Reform Act and is consistent with state policy and regulations regarding reduced reliance. Simply put, if approved by LAFCO the Reorganization will not increase FPUD or MWD reliance on the Delta as defined in state law and policy.

A. Background

SDCWA contends that LAFCO must conclude the Reorganization results in increased reliance on the Delta from a vague set of sometimes conflicting and confusing standards and analysis that it puts forward for consideration. SDCWA ignores that the State of California has developed regulations and a detailed methodology for assessing reduced reliance and regional self-reliance. That notwithstanding, SDCWA proposes its own flawed evaluation process detached from how reduced reliance is determined by the State of California. Nowhere is this more apparent than when SDCWA argues in its Combined Response that it is necessary to assess reduced reliance on a month by month basis based on actual monthly water deliveries to FPUD and RMWD in in FY 2020.⁶

The "no effect on the Bay-Delta" argument ignores the fact that even presently there are months in which the Water Authority buys very limited MWD water and provides Fallbrook and Rainbow with QSA water, and those months would be very different in a detachment world where the demand in those months would instead fall on MWD to provide all the water from its own supplies, and not from QSA water (which volume does not reduce). In other words, one cannot just look at annual amounts, but must also review monthly needs and deliveries.⁷

⁶ See, Combined Response, Exhibit 49 (September 1, 2020 Letter from Rod Smith, Stratecon, to Mark Hattam SDCWA General Counsel RE: Impact of Fallbrook and Rainbow Detachment on Southern California's Reliance on the Bay Delta).

⁷ Combined Response, Page 98.

The Draft DWR Guidebook on how water suppliers should analyze reduced reliance in their 2020 UWMP states the following as a critical data consideration:

For the purposes of quantifying reduced reliance, it is best that data provided reflect an average-year or normal condition, not actual conditions. Actual conditions in a single year are highly influenced by the hydrologic conditions in that year. . . .”⁸

Monthly delivery of water to FPUD and RMWD has no bearing on how a water supplier’s reduced reliance on the Delta is determined. There are several other examples put forward by SDCWA and its consultant Stratecon that contradict the actual basis used for determining reduced reliance. Because of this, it is necessary for FPUD to put forward accurate information on the reduced reliance of FPUD, EMWD and MWD using the actual State of California adopted measures for making the determination.

B. Understanding the 2009 Delta Reform Act and Water Code Section 85021

The 2009 Delta Reform Act was comprehensive legislation that established and sought to achieve the co-equal goals of state-wide water supply reliability and environmental restoration of the Delta ecosystem. The 2009 Delta Reform Act created a system of state policy, Delta governance, comprehensive planning, scientific research, and a regulatory structure to achieve the legislatively mandated co-equal goals which was, in part, codified into the Water Code as Section 85021. Section 85021 states the following:

The policy of the State of California is to reduce reliance on the Delta in meeting California’s future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.

(Added by Stats. 2009, 7th Ex. Sess., Ch. 5, Sec. 39. (SB 1 7x) Effective February 3, 2010.)

SDCWA contends that:

. . . the proposed reorganizations sought by Fallbrook and Rainbow directly contravene California’s Bay-Delta policy because they increase risk of demand on the Bay-Delta. This . . . is a **water supply mandate** from the State Legislature – one that the Water Authority has followed. LAFCO cannot just ignore this issue. . . .⁹

For purposes of Section 85021, the “region that depends on water from the Delta watershed” applicable to the Reorganization is the entire MWD service area. MWD is the regional provider of SWP water. SDCWA and EMWD are all member agencies of MWD whose entire individual service areas are fully located within the MWD service area. Although not a MWD member agency, FPUD is considered a sub-agency of MWD and its service area is also fully located within MWD boundaries and is part of that “region” referred to in Section 85021. Importantly, there is no separating SDCWA from the definition of “region” intended by the legislature in the 2009 Delta Reform Act and codified in Section 85021. As a region and as individual water suppliers MWD, FPUD, EMWD and SDCWA are all making and will continue to make investments in all of

⁸ Draft Urban Water Management Plan Guidebook 2020 (Draft DWR Guidebook), Appendix C, Example Approach to Demonstrate Reduced Delta Reliance at C-9.

⁹ Combined Response, Page 99. (Emphasis in the original.)

the water supply strategies as required by state policy codified in Section 85021. All of those contributions are part of the MWD regional self-reliance and reduced reliance on the Delta. This Memorandum provides substantive evidence that FPU and other agencies involved in the potential Reorganization are all contributing to reduced reliance on the Delta and are meeting the requirements of the Delta Reform Act.

1. Delta Plan and Reduced Reliance

The role of reduced reliance in achieving the co-equal goals under the Delta Reform Act does not rest solely on agencies investing in the strategies listed in Section 85021, because the Delta Reform Act also established the Delta Stewardship Council (Council) and empowered the Council to develop a comprehensive Delta Plan¹⁰ to achieve the Act's co-equal goals. Pursuant to Water Code section 85225, the Delta Plan requires a state or local public agency that is undertaking what it terms a "covered action"¹¹ to prepare a written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and shall submit that certification to the Council.

Chapter 3 of the Delta Plan¹² addresses achievement of the co-equal goal of reliability of the state's water supply. It states that:

four core water strategies must be implemented throughout the state to achieve the coequal goal of providing a more reliable water supply for California

- Increase water conservation and expand local and regional supplies
- Improve groundwater management
- Improve conveyance and expand storage
- Improve water management information

The Delta Plan adopts two policies and 14 recommendations to achieve the co-equal goal of water supply reliability. Delta Plan policies have the force of regulation and recommendations are suggested guidance and best practices.¹³ In making a determination of consistency with the Delta Plan in a covered action, the applicant must comply with the Delta Plan Policies or regulations.¹⁴ The regulation associated with reduced reliance on the Delta is WR P1. Specifically,

¹⁰ CA Water Code § 85300.

¹¹ Pursuant to Water Code section 85057.5(a), "Covered action" means a plan, program, or project as defined pursuant to Section 21065 of the Public Resources Code that meets all of the following conditions:

- (1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh.
- (2) Will be carried out, approved, or funded by the state or a local public agency.
- (3) Is covered by one or more provisions of the Delta Plan.
- (4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta.

¹² The Delta Plan, Chapter 3, "A More Reliable Water Supply for California" (as amended April 26, 2018).

¹³ The Delta Plan, 2013, Chapter 1 at 16.

¹⁴ CA Water Code § 85210(i). Regulations regarding "Consistency with Regulatory Policies Contained in the Delta Plan" are set out at 23 CCR § 5001 *et seq.*

WR P1 potentially applies to a proposed action to export water from, transfer water through, or use water in the Delta; but the measures required by WR P1 are not triggered unless one or more water suppliers would receive water as a result of the proposed action (see 23 California Code of Regulations [CCR] Section 5003 (b)).¹⁵

WR P1, as also set out in Section 5003 (c)(1)(2) of Title 23 of the California Code of Regulations, requires that a determination of consistency document that meets the following criteria:

(c)(1) Water suppliers that have done all of the following are contributing to reduced reliance on the Delta and improved regional self-reliance and are therefore consistent with this policy:

(A) Completed a current Urban or Agricultural Water Management Plan (Plan) which has been reviewed by the California Department of Water Resources for compliance with the applicable requirements of Water Code Division 6, Parts 2.55, 2.6, and 2.8;

(B) Identified, evaluated, and commenced implementation, consistent with the implementation schedule set forth in the Plan, of all programs and projects included in the Plan that are locally cost effective and technically feasible which reduce reliance on the Delta; and

(C) Included in the Plan, commencing in 2015, the expected outcome for measurable reduction in Delta reliance and improvement in regional self-reliance. The expected outcome for measurable reduction in Delta reliance and improvement in regional self-reliance shall be reported in the Plan as the reduction in the amount of water used, or in the percentage of water used, from the Delta watershed. For the purposes of reporting, water efficiency is considered a new source of water supply, consistent with Water Code section 1011(a).

(2) Programs and projects that reduce reliance could include, but are not limited to, improvements in water use efficiency, water recycling, stormwater capture and use, advanced water technologies, conjunctive use projects, local and regional water supply and storage projects, and improved regional coordination of local and regional water supply efforts.

SDCWA, in an apparent attempt to bolster its claim that the Reorganization will result in a violation of Section 85021 and the state policy on reduced reliance, sought input, through a series of communications, from Michael George, the Delta Watermaster for the State of California. In a September 17, 2020 email to SDCWA General Manager Sandy Kerl, Mr. George noted:

¹⁵ The Delta Plan, Appendix G, Page G-2.

De-annexation, if approved by LAFCO and carried out by those local water suppliers, would not be a “covered action,” because it does not involve any physical activity within the Delta. Therefore, the required consistency with WR P1 would not be triggered directly.¹⁶

Mr. George also noted that although the application for Reorganization does not trigger WR P1, recent history confirms that the actions of individual water suppliers like FPUD, MWD, SDCWA and EMWD are taken into consideration when consistency with WR P1 is applied to a covered action:

In 2018, the Department of Water Resources (DWR) certified that the SWP’s WaterFix project (also known as the twin tunnels conveyance project) was consistent with the Delta Plan. Numerous parties appealed to the Council, claiming, among other things, that WaterFix was inconsistent with WR P1. Because DWR was unable to demonstrate that all of the suppliers who received water from the SWP had taken appropriate steps to reduce their reliance on the Delta supply source, the Council’s staff recommended that the appeal be upheld. Faced with a likely rejection of its consistency certification, DWR withdrew.”¹⁷

In his email Mr. George further notes that the Delta Plan Appendix G provides specific guidance on complying with WR P1 by referencing this excerpt from Appendix G:

It is important to recognize that reliance on water from the Delta...varies throughout California, from region to region and water supplier to water supplier. Some water suppliers have greater access to alternative water supplies or have a greater ability to implement a diverse range of water efficiency and water supply projects. Others...may have a narrower range of options.... The key is that every supplier must do its part and take appropriate action to improve regional self-reliance and contribute to reduced reliance on water from the Delta watershed.¹⁸

Although FPUD disagrees with Mr. George’s conclusion relative to the effect of the Reorganization on reduced reliance, it does agree with these points made by Mr. George concerning the relevance of WR P1 in assessing compliance with reduced reliance. The Delta Plan specifically acknowledges that there will be variation in the ability to reduce reliance. WR P1 does not set a numeric requirement for a water supplier to reduce reliance or require an agency to do everything it possibly can to reduce reliance on the Delta. As noted above **“the key is that every supplier must do its part and take appropriate action”** to improve and contribute to reduced reliance on the Delta. The Delta Plan, Appendix G, states the following in how reduced reliance should be analyzed and reported:

Analyze and Implement. Water suppliers must have identified, evaluated, and commenced implementation, consistent with the schedule they identify in their plan, ***of the technically feasible, locally cost-effective programs and projects that will reduce their reliance on the Delta.***¹⁹

¹⁶ September 17, 2020 12:26 pm George, Michael@Waterboards to Kerl, Sandy subject: Reduced Demand on Delta. This email was forwarded by SDCWA to LAFCO (George Email).

¹⁷ George Email.

¹⁸ George Email, referencing The Delta Plan, Appendix G, Page G-5.

¹⁹ The Delta Plan, Appendix G at G-4. (Emphasis added.)

UWMPs are given the prominent role by the Delta Stewardship Council in determining consistency with WR P1. Subsections (A) and (C) of WR P1 makes it clear that consistency at the water supplier level will be documented through UWMPs. Although such documentation was to commence with 2015 UWMPs specific guidance was not included until the California Department of Water Resources (DWR) the Draft DWR Guidebook, which now includes the following statement, reinforces the relevance of WR P1 and UWMPs:

Delta Plan Policy WR P1 identifies UWMPs as the tool to demonstrate consistency with state policy to reduce reliance on the Delta for a Supplier that carries out or takes part in a covered action.²⁰

The determination of consistency with WR P1 and the definition of reduced reliance on the Delta rests upon the water supplier's UWMP. The Draft DWR Guidebook, which was completed in collaboration with the Delta Stewardship Council, provides very clear guidance on how reduced reliance will be evaluated for consistency with WR P1, providing as follows:

To demonstrate reduced reliance on the Delta, water suppliers need to compare current or future Delta water use with a baseline. This baseline is the amount of Delta water used historically that will be compared to current and projected future Delta water use in order to calculate how Delta water use and regional self-reliance have changed over time.²¹

II. APPLICATION FOR REORGANIZATION AND REDUCED RELIANCE ON THE DELTA

The remainder of this Memorandum will both address how FPUD views that its application for Reorganization is consistent with the requirements of reduced reliance on the Delta and how each of SDCWA's claims are inaccurate and at a minimum displays SDCWA's lack of understanding of California's requirements for demonstrating reduced reliance on the Delta in conformance with Section 85021 and Delta Plan regulation WR P1.

A. SDCWA Claim #1- "the proposed reorganizations sought by Fallbrook and Rainbow directly contravene California's Bay-Delta policy"²²

Response to SDCWA Claim #1: FPUD, EMWD and MWD are demonstrably in compliance with Section 85021. Approval of the Reorganization **will not** directly "**contravene California's Bay-Delta policy.**" SDCWA's claim has no merit.

SDCWA, in the Combined Response, correctly points out the importance of the Delta in California and the urgent nature of addressing the issues delineated in legislation, regulation, and public policy. FPUD and all water suppliers in the MWD service area support this assessment and the centrality of the Delta to water supply reliability through achievement of the state mandated co-equal goals of water supply reliability and Delta ecosystem restoration. Where SDCWA is completely mistaken, is in its assertion that approval of the Reorganization will result in increased use of SWP water by MWD and will increase reliance on the Delta by FPUD. Not only is FPUD reducing its reliance on the Delta in conformance with Section

²⁰ Draft DWR Guidebook, Appendix C, Page C-2.

²¹ *Id.* at Page C-6 – C-7.

²² Combined Response, Page 99.

85021 and WR P1 but also are MWD and EMWD and many other southern California water suppliers. The following analysis demonstrates that from every possible perspective the Reorganization will be in compliance with reduced reliance requirements and contributing to reduced reliance on the Delta for water supplies.

1. Compliance with Section 85021

As noted previously, Section 85021 states that the policy of the State of California is to reduce reliance on the Delta for meeting the water needs of the state. As the statute states, reduced reliance is expected from “[e]ach region that depends on water from the Delta watershed.” Such reduction in reliance will be achieved in part by greater regional self-reliance:

through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.²³

For purposes of defining the “region that depends on water from the Delta watershed” it is the entity that contracts with the State of California to receive SWP water from the Delta watershed. The MWD service area defines the region. As a member agency of MWD, SDCWA is part of the region “that depends on water from the Delta watershed.” Assessing what if any effect approval of the application for Reorganization has on compliance with Section 85021 requires examining whether FPUD, EMWD and MWD and its member agencies are investing in those strategies the State of California believes will reduce reliance on the Delta. Section 85021 does not set quantitative requirements or a schedule for making these investments, it is a policy statement that notes the specific investments that can be made by water suppliers that are considered to contribute to reduced reliance.

The primary document for assessing whether these types of investments are being made by FPUD, EMWD and MWD are the individual 2015 Urban Water Management Plans (UWMP) of these agencies.

a. FPUD Compliance with Section 85021

The table below is from FPUD’s 2015 UWMP and demonstrates that in 2015 FPUD was already investing in recycled water pursuant Section 85021 and was continuing to make investments in recycled water that would double the amount of beneficial reuse.

²³ CA Water Code § 85021.

| Table 6-4 Retail: Current and Projected Recycled Water Direct Beneficial Uses | | | | | | | |
|--|---|--|-------------|--------------|--------------|--------------|--------------|
| Name of Agency Producing (Treating) the recycled water: | | Fallbrook Public Utility District | | | | | |
| Name of Agency Operating the recycled water distribution system: | | Fallbrook Public Utility District | | | | | |
| Supplemental Water Added in 2015: | | 162.2 Acre Feet | | | | | |
| Source of 2015 Supplemental Water: | | Fallbrook Public Utility District | | | | | |
| Beneficial Use Type | General Description of 2015 Uses | Level of Treatment | 2015 | 2020 | 2025 | 2030 | 2035 |
| Agricultural irrigation | Nursery production, cash crops | Tertiary | 416 | 770 | 840 | 840 | 840 |
| Landscape irrigation (excludes golf courses) | HOAs, roadways, natural areas | Tertiary | 178 | 330 | 360 | 360 | 360 |
| Total: | | | 594 | 1,100 | 1,200 | 1,200 | 1,200 |

The following table is also from FPUD’s 2015 UWMP and addresses investment in future projects. The Santa Margarita Conjunctive Use Program (SMR CUP) is a regional groundwater management program optimizing surface water runoff and groundwater storage utilizing advanced water treatment technologies to recover brackish groundwater. SMR CUP is a regional partnership between FPUD and the United States Marine Corps Base Camp Pendleton (MCBCP) that will reduce FPUD’s need for imported water, including SWP supplies, originally projected at an average of 3,100 acre feet per year. Since the development of this projection MCBCP has identified approximately 1,100 AFY of annual additional supplies projected available for FPUD, resulting in a total anticipated new local supply of 4,200 AFY on average. As noted previously, DWR guidance on determining reduced reliance on the Delta requires using average weather year supplies. In the case of SMR CUP the 3,100 acre feet of new local supply is also the amount of water that can be expected from the project in a dry year hydrology similar to the recent drought of 2014-2016. With the potential additional 1,100 AFY available from MCBCP the average year supply from the SMR CUP is likely to exceed 4,200 AFY. The SMR CUP is currently under construction and is expected to begin delivering water to FPUD customers in 2022.

| Table 6-7 Retail: Expected Future Water Supply Projects or Programs | | | | | | |
|---|------------------------------------|----------------------------------|-----------------------------|-----------------------------|------------------------------|--------------------------|
| Name of Future Projects or Programs | Joint Project with other agencies? | | Description | Planned implementation year | Planned for Use in Year Type | Increase in water supply |
| Santa Margarita Conjunctive-Use Project | Yes | Marine Corps Base Camp Pendleton | Conjunctive groundwater use | 2020 | Average year | 3,100 |

As noted in Section 85021, water use efficiency is another means of reducing reliance on the Delta for water supply. Water use efficiency is a comprehensive term for both water recycling and water conservation. The Delta Reform Act was one of several pieces of legislation signed into law that year that addressed the overall reliability of water supply in California. The Water Conservation Act of 2009 (SB X7-7) established a requirement for urban water suppliers to achieve a 20% reduction in water use by 2020. SB X7-7 set water conservation targets for retail water suppliers like FPUD to demonstrate that they reduced water use as measured by a gallons per capita day (GPCD) metric. The State of California established a methodology to demonstrate reduced water use by using an historic baseline water use amount to measure reductions from. The goal of SB X7-7 was to achieve a 20% reduction GPCD for the historic baseline for all urban water suppliers by 2020 with achievement of an intermediate target in 2015. FPUD was required to report its progress in meeting the 2020 target in its 2015 UWMP.

Table 5-1 from FPUD’s 2015 UWMP displays its Baseline GPCD as the basis for determining its reduction in water use and its 2015 Interim Target and 2020 Target. A 2020 Target of 374 GPCD represents a 20% reduction from the Historic Baseline GPCD of 467.

| Table 5-1 Baselines and Targets Summary <i>Retail Agency or Regional Alliance Only</i> | | | | | |
|---|------------|----------|------------------------|-----------------------|------------------------|
| Baseline Period | Start Year | End Year | Average Baseline GPCD* | 2015 Interim Target * | Confirmed 2020 Target* |
| 10-15 year | 1999 | 2008 | 467 | 421 | 374 |
| 5 Year | 2003 | 2007 | 486 | | |
| *All values are in Gallons per Capita per Day (GPCD) | | | | | |

The next table demonstrates FPUD’s progress in meeting the Interim 2015 Target. It is clear that FPUD was not only using less water per capita than its 2015 Interim Target but also, by 2015 had achieved a water use efficiency 27% below its 2020 Target.

Table 5-2: 2015 Compliance

*Retail Agency or Regional Alliance Only**

| Actual 2015 GPCD | 2015 Interim Target GPCD | Optional Adjustments to 2015 GPCD Enter "0" for adjustments not used From Methodology 8 | | | | | 2015 GPCD (Adjusted if applicable) | Did Supplier Achieve Targeted Reduction for 2015? Y/N |
|------------------|--------------------------|---|---------------------|-----------------------|-------------------|--------------------|------------------------------------|---|
| | | Extraordinary Events | Economic Adjustment | Weather Normalization | TOTAL Adjustments | Adjusted 2015 GPCD | | |
| 272 | 421 | 0 | 0 | 0 | 0 | 272 | 272 | Yes |

**All values are in Gallons per Capita per Day (GPCD)*

It's important to note that 2015 was at the height of the very severe prolonged statewide drought that resulted in Emergency Conservation Regulations by the State Water Resources Control Board (SWRCB) to reduce statewide water use.²⁴ However, FPUD continued to achieve these same levels of water conservation after the Emergency Conservation Regulation was lifted up to the current day. The SWRCB requires urban water suppliers like FPUD to report their residential GPCD monthly together with the reduction from a 2013 Baseline. In July of 2020 FPUD's Residential GPCD was 127 GPCD and in August it was 155 GPCD. This is noteworthy because these are the high water use summer months that continue to show a low GPCD for the residential sector which makes up approximately 50% of FPUD's water use. When factoring in the agricultural component of water use, FPUD continues to maintain 204 GPCD—45% under its 2020 Target.

➤ **CONCLUSION: FPUD IS IN COMPLIANCE WITH SECTION 85021**

FPUD has and continues to invest and make progress in contributing to reduced reliance on the Delta in conformance with Section 85021. It is accomplishing this by the following:

- Investing in water use efficiency through participation in available regional programs and demonstrated below its 2020 Target.
- Investing in water recycling as documented its beneficial reuse of recycled.
- Investing in advanced water technologies and local and regional projects with MCBCP through construction and implementation of the SMR CUP that will reduce FPUD's need for imported water by almost one-third.

b. MWD and EMWD Compliance with Section 85021

i. EMWD

If the application for Reorganization is approved FPUD will be a wholesale water customer of EMWD. Because of this, it is also worth noting how MWD and EMWD are complying with Section 85021. Again, using the 2015 UWMP as the foundational document for assessing reduced reliance demonstrates that both agencies are taking the necessary steps to meet the requirements of Section 85021.

²⁴ Executive Orders B-29-15, B-36-15, B-37-16.

The following table from EMWD’s 2015 UWMP lists the future projects EMWD is undertaking that will reduce reliance on the Delta. These projects include recycled water, use of advanced water treatment technologies, and consist of local projects and projects with regional partners. The projects listed by EMWD in this table will make substantial contributions to reduced reliance and are fully consistent with Section 85021.

| DWR Table 6-7 Retail: Expected Future Water Supply Projects or Programs | | | | | | |
|--|---|---|--|------------------------------------|-------------------------------------|--|
| Name of Future Projects or Programs | Joint Project with other agencies? | | Description | Planned Implementation Year | Planned for Use in Year Type | Expected Increase in Water Supply to Agency |
| | Y/N | If Yes, Agency Name | | | | |
| San Jacinto ERRP ^{1,2} | Yes | Inland Empire Utilities Agencies, Orange County Water District, San Bernardino Valley Municipal Water District, Western Municipal Water District, DWR | Project to be completed in phases and includes conjunctive use of groundwater recharge and stormwater capture. | 2020 | Multi-Dry Year | 45,000 AFY |
| Moreno Valley Groundwater Development | No | -- | Completion of up to three new wells in the Moreno Valley area | 2020 | Average Year | 2,000 AFY |
| North Perris Groundwater Development | No | -- | Completion of a new well in the North Perris area | 2020 | Average Year | 1,000 AFY |
| Perris II Desalter | Yes | Army Corps of Engineers | Project includes four new wells, two of which will be drilled by Army Corps of Engineers | 2020 | Average Year | 3,000-6,000 AFY |
| Full Utilization of Recycled Water (Potential IPR) ³ | No | -- | Advanced treated recycled water used to recharge the Hemet/San Jacinto Basin | 2020-2040 | Average Year | 18,500 |

In terms of EMWD’s investment and accomplishments in water use efficiency the below tables from EMWD’s 2015 UWMP establish a 2020 Target of 176 GPCD and a 2015 Interim Target of 187 GPCD. In the second table EMWD reports an actual 2015 GPCD of 129, 31% below the Interim Target and 27% below the 2020 target GPCD.

| DWR Table 5-1 Baselines and Targets Summary <i>Retail Agency or Regional Alliance Only</i> | | | | | |
|--|------------|----------|-----------------------|--------------------------|----------------------------|
| Baseline Period | Start Year | End Year | Average Baseline GPCD | 2015 Interim Target GPCD | Confirmed 2020 Target GPCD |
| 10-15 year | 1999 | 2008 | 197 | 187 | 176 |
| 5 Year | 2003 | 2007 | 195 | -- | -- |

| DWR Table 5-2: 2015 Compliance <i>Retail Agency or Regional Alliance Only*</i> | | | | | | | | |
|--|--------------------------|-----------------------------------|---------------------|-----------------------|-------------------|--------------------|-----------|---|
| Actual 2015 GPCD | 2015 Interim Target GPCD | Optional Adjustments to 2015 GPCD | | | | | 2015 GPCD | Did Supplier Achieve Targeted Reduction for 2015? |
| | | Extra-ordinary Events | Economic Adjustment | Weather Normalization | TOTAL Adjustments | Adjusted 2015 GPCD | | |
| 129 | 187 | 0 | 0 | 0 | 0 | 129 | 129 | Yes |

EMWD continues to maintain this high level of efficiency and has reported to the SWRCB residential water use for July 2020 of 125 GPCD and 131 GPCD for August 2020. Residential consumption represents almost 80% of EMWD’s total water use for those months. EMWD 2020 combined GPCD for its service area is 123 GPCD which is 30% below its SB X7-7 2020 target of 176 GPCD.

ii. MWD

Investment in Advanced Water Technologies

MWD is the wholesale water supplier to both EMWD and SDCWA. MWD is the entity that contracts with the State of California for the delivery of SWP water. MWD itself meets all the requirements of Section 85021. The following is excerpted from MWD’s 2015 UWMP and addresses the specific sections of 85021 relative to MWD’s contributions to reduced reliance on the Delta.

New technologies, research, and information sharing greatly enhance the development of recycled water. Programs such as Metropolitan’s Foundational Actions Funding Program focus on technical studies and pilot projects that reduce barriers to future local production. Projects under this program include optimizing new treatment techniques for recycled water, exploring new monitoring methodologies, and testing innovative brine concentration technology. In addition to the technical portions of this program, the FAF Program supports collaboration between agencies and regional sharing of information.

Investment in Water Recycling

MWD’s historic role in water recycling has been through providing assistance to its member agencies and sub-agencies in addressing financial, technological, and regulatory obstacles to implementation. Its most significant investment in water recycling has been through its Local Resources Program (LRP) that provides financial incentives to local agencies implementing recycling. The table below displays the number of

projects and amount of water created through the LRP and MWD’s financial investment as of its 2015 UWMP. LRP is a critical financial component for water recycling and other projects in SDCWA’s service area as well as EMWD’s service area.

**Table 3-13
Local Resources Program**

| | Recovered Groundwater | Recycled Water | Total |
|-------------------------------|-----------------------|----------------|-------|
| Projects | | | |
| In Operation | 24 | 75 | 99 |
| Ultimate Yield (TAF) | 112 | 310 | 422 |
| Deliveries (TAF) | | | |
| FY 2014-2015 | 60 | 184 | 244 |
| Since Inception | 791 | 2,237 | 3,028 |
| Payments (\$ millions) | | | |
| FY 2014-2015 | \$8 | \$30 | \$38 |
| Since Inception | \$132 | \$372 | \$504 |

Investment in local and regional water supply projects, and improved regional coordination of local and regional water supply efforts

Over the last few years MWD has been working with the Sanitation Districts of Los Angeles County on a potable reuse project via ground water recharge that would be among the largest such projects in California if implemented. The following excerpt from MWD’s 2015 UWMP notes the status

The Regional Recycled Water Program, a partnership with the Sanitation Districts of Los Angeles County, will purify wastewater to produce high quality water that could be used again. The program will start with a demonstration facility and could eventually become one of the largest advanced water treatment plants in the world. A full-scale regional recycled water program would produce up to 150 million gallons daily, enough to serve more than 500,000 homes. Purified water from the advanced treatment facility would be delivered through 60 miles of new pipelines to the region’s groundwater basins, industrial facilities and two of Metropolitan’s treatment plants.²⁵

In November 2020, the MWD Board of Directors approved the initiation of environmental analysis of the proposed Regional Recycled Water Program.

Investment in Water Use Efficiency

MWD has led the state in investments in water use efficiency and water conservation and has been at the forefront of behavioral, technological and market based changes in customer water use. SDCWA has been a primary beneficiary of MWD’s aggressive approach to funding water conservation. The below excerpt from MWD’s 2015 UWMP summarizes its involvement in the area of water conservation:

²⁵ Regional Recycles Water Advanced Purification Center information available at: <http://www.mwdh2o.com/DocSvcPubs/rrwp/index.html#strategy>

Demand management through conservation is a core element of Metropolitan’s long-term water management strategy. Metropolitan continues to build on a nearly 25-year investment in conservation of more than \$495 million, reflecting a long-term commitment to water conservation. Among other measures, this investment has resulted in the replacement of more than 3.4 million toilets with more water efficient models, distribution of more than 530,000 high-efficiency clothes washers (HECWs), and removal of approximately 170 million square feet of grass from both commercial and residential properties. Collectively, Metropolitan’s conservation programs and other conservation in the region will reduce Southern California’s reliance on imported water by more than 1.0 MAF per year by 2025.

➤ **CONCLUSION: EMWD AND MWD ARE IN COMPLIANCE WITH SECTION 85021**

As summarized above, EMWD and MWD are in compliance with Section 85021.

B. SDCWA Claim #2- “the proposed reorganization increases risk of demand on the Bay Delta.”²⁶

Response to SDCWA Claim #2: Since the Reorganization will not add demand to the Skinner Service Area and the need to meet water quality standards drives the blending of SWP water with Colorado River water the delivery of water to FPUD under the Reorganization will consist of exactly the same amount of SWP water FPUD receives currently as a member agency of SDCWA.

In this claim SDCWA contends that FPUD, by taking delivery of its water as a wholesale water customer of EMWD, will result in an increased need on the part of MWD for imported water from the Delta. In its analysis SDCWA on one hand recognizes that FPUD and SDCWA receive a blended water supply of SWP and Colorado River water²⁷ but then on the other hand points to monthly deliveries of Colorado River water from its QSA supplies as an indicator that it receives almost no SWP water coming from the Delta. These are contradictory statements that cloud the issue and require clarification.

In its application for Reorganization, FPUD included a technical report from EMWD that addressed this issue. In its technical report EMWD stated:

The de-annexation of Fallbrook and RMWD from the SDCWA would not result in Metropolitan, as a State Water Contractor, increasing its reliance on the Sacramento-San Joaquin Delta (Delta) since Fallbrook and RMWD would continue to be supplied from Metropolitan’s Robert A. Skinner Water Treatment Plant.²⁸

²⁶ The Metropolitan Water District of Southern California, 2015 Urban Water Management Plan at 3-30.

²⁷ SDCWA acknowledges in its Combined response that the Skinner Plant “treats water from both the State Water Project (i.e., the Bay-Delta),” the Colorado River, including some Water Authority QSA supplies. the Colorado River, including some Water Authority QSA supplies.

²⁸ February 12, 2020 EMWD Technical Memorandum. Page 1 ((Water Resources and Facilities Planning Department), Analysis of Eastern Municipal Water District’s Water Supply and System Reliability with the Potential Annexation of Fallbrook Public Utility District and Rainbow Municipal Water District).

The statement from the EMWD technical report is accurate in that it reflects the operation of the MWD water treatment and distribution system that delivers water to EMWD, Western Municipal Water District (WMWD) and SDCWA. FPUD and RMWD will use exactly the same amount of water they would use as a wholesale water customer of EMWD that they would use if a member agency of SDCWA. The Reorganization has no effect on how much water FPUD or RMWD will use or where that water comes from.

1. How MWD Operates Its System and Delivers Water Matters

In its Combined Response SDCWA argues against EMWD's conclusion that the Reorganization does not result in increased reliance on Bay Delta supplies by stating that:

MWD and Eastern may try to negate these facts by saying that because the Water Authority receives its QSA water from an Exchange Agreement with MWD, the Water Authority may always physically get Bay-Delta water, because MWD has the right to blend the water as it sees fit to the Water Authority.²⁹

SDCWA's statement ignores several important facts around the Exchange Agreement and the operation by MWD of its water treatment and distribution system. SDCWA in its Exchange Agreement with MWD uses MWD owned facilities to convey its Colorado River water to San Diego County. The MWD water distribution system is not designed to solely serve SDCWA. That portion of the MWD system serving southern Riverside County and San Diego County has, as its hub, Lake Skinner and the Robert A. Skinner Water Treatment Plant.

Although from an "accounting" standpoint the full amount of SDCWA's Colorado River supplies are delivered to SDCWA, from the practical operation of the MWD treatment and distribution system, they are blended into the supplies that serve the entire Skinner Service Area. The 2003 Amended and Restated Exchange Agreement³⁰ between MWD and SDCWA to convey SDCWA's QSA supplies recognized this fact. Article I Paragraph 1.1 (m) states, in part, that:

The Exchange Water may be from whatever source or sources and shall be delivered using such facilities as may be determined by Metropolitan.

The "accounting" of SDCWA's Colorado River supplies is defined in Article IV, Characterization of Exchange Water, Paragraph 4.1 as follows:

The Exchange Water shall be characterized for the purposes of all of Metropolitan's ordinances, plans, programs, rules and regulations, including any then effective Drought Management Plan, and for the calculation of any Readiness-to-serve Charge share, in the same manner as the Local Water of other Metropolitan member agencies except as provided in Paragraphs 4.2 and 5.2.

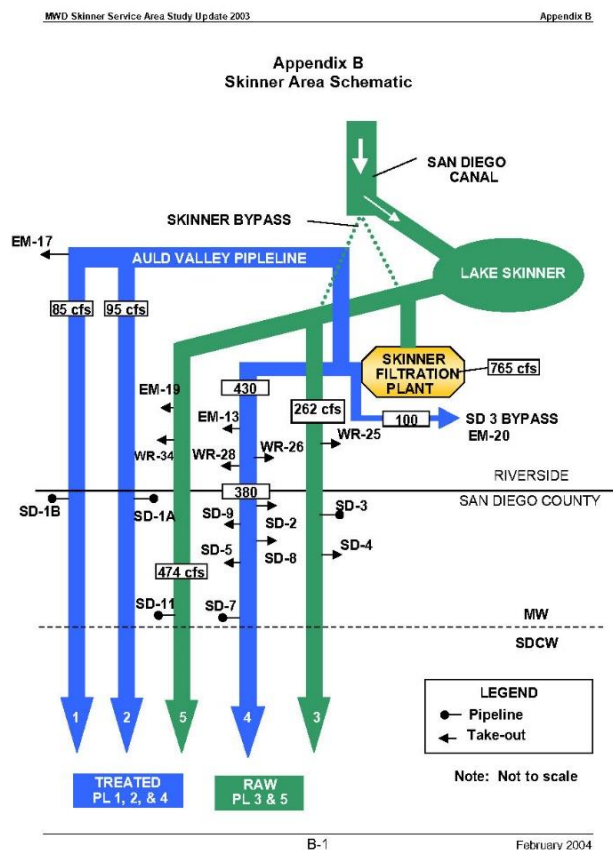
²⁹ Combined Response, Page 98.

³⁰ Amended and Restated Agreement Between the Metropolitan Water District of Southern California and the San Diego County Water Authority For the Exchange of Water, October 10, 2003.

Because SDCWA uses MWD facilities to deliver its Colorado River supplies those supplies must be combined with other MWD supplies to serve the entire Skinner Service Area. In serving all the agencies taking delivery of water in the Skinner Service Area MWD must operate the system to meet **all member agency needs** and according to its approved policies and procedures. This is also recognized in the 2003 Exchange Agreement Article III paragraph 3.2 states:

(b) Metropolitan’s delivery of Exchange Water at the Metropolitan Delivery Points shall be governed by its rules and regulations as set forth in Chapter 5 of Division IV of the Administrative Code in the same manner as other water delivered by Metropolitan, except as otherwise may be provided in this Agreement.

The below schematic displays the delivery of MWD water in the Skinner Service Area to the different MWD member agencies including SDCWA. There is no ability to separately deliver SDCWA’s Colorado River water. All water needed to serve EMWD, WMWD and SDCWA connections must be a combination of the total water needed to meet demand in the entire Skinner Service Area.



Over the last 10 years MWD has annually delivered an average of 1.67 million acre feet to its member agencies that is made up of supplies from two sources, the SWP and the Colorado River. The more demand MWD can meet from the Colorado River and the less demand for MWD supply due to local water and

conservation the less MWD is dependent on the Delta. MWD must meet its full system wide demand for water and operate its five distinct and separate service areas to meet both demand and water quality requirements. In FY 2020 the total MWD system deliveries was 1.46 million acre feet. The combined demand of SDCWA, EMWD and MWD is the key driver of how much water and from what source MWD requires to serve the Skinner Service Area. For example, In FY 2020 the total demand in the Skinner Service Area was 410,500 acre feet of which 340,900 acre feet were delivered to SDCWA.³¹ SDCWA's 260,000 acre feet of QSA supplies delivered in FY 2020 were not the totality of its MWD deliveries and through the Exchange Agreement are used to meet the total Skinner Service Area demands.

The Reorganization will not increase demand in the Skinner Service Area nor will it increase reliance on the Delta. It is not happenstance that SDCWA receives its supplies as SDCWA's consultant Mr. Smith of Stratecon Inc., notes in his report as ***"water from Metropolitan commingled with the exchange water from the IID transfer and canal lining."***³² It is by design of the Exchange Agreement and to the benefit of SDCWA. Taking that blend of water into consideration is totally consistent with determining reduced reliance on the Delta by California law and policy.

2. Reduced Reliance is Dependent on Regional Self-Reliance and SDCWA will continue to Contribute to "Regional Self-Reliance" after Reorganization

Despite its desire to frame itself as unique and separate from the MWD service area, SDCWA's Colorado River supplies contribute to the entire MWD service area's regional self-reliance and reduced reliance on the Delta. As a member agency of MWD receiving supplies originating from the Delta watershed, SDCWA is inextricably tied to the MWD region and its collective efforts to reduce reliance on the Delta. SDCWA is inconsistent with how it calculates its current Delta water use and how it estimates its future reliance on the Delta.

In, contrast, for every 1,000 acre-feet the Water Authority sells, about 210 acre-feet currently comes from the Bay Delta. Because the Water Authority expects by 2035 to be at about 2% MWD water, ***this would drop the Water Authority's Bay-Delta water use to close to zero.***³³

While SDCWA focuses its current reliance on the Delta from the singular perspective of its own sources of water supply it sells to its member agencies, SDCWA bases its future estimated 2% of MWD purchases in 2035 by including all of the supply sources of the SDCWA member agencies. Those member agency supplies account for over 40% of the total San Diego County water portfolio.³⁴ That uneven comparison with MWD is misleading and seeks to ignore how the MWD service area, as a whole, is reducing its reliance on the Delta just as SDCWA's 2035 chart displays.

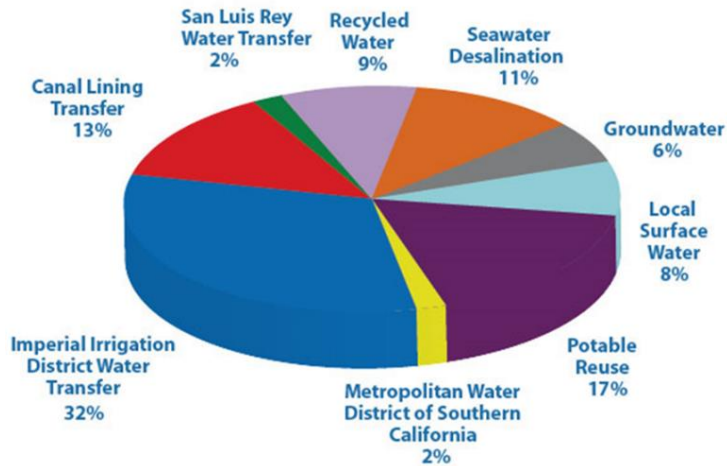
³¹ Source : MWD staff. Includes MWD purchases. QSA water and San Luis Rey Indian Water Exchange s

³² Combined Response, Exhibit 49, Page 4 (September 1, 2020 Letter from Rod Smith, Stratecon, to Mark Hattam SDCWA General Counsel RE: Impact of Fallbrook and Rainbow Detachment on Southern California's Reliance on the Bay Delta). (Emphasis added.)

³³ Combined Response, Page 97. (Emphasis in the original.)

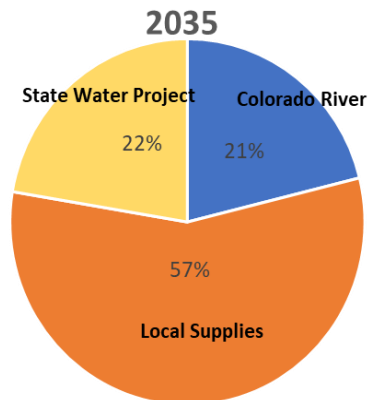
³⁴ Source SDCWA Diversifying San Diego's Water Supply.

2035



Using the same system wide approach SDCWA uses for itself in 2035 MWD’s 2015 IRP Update forecasts that dependence on the SWP will be 22%, far from the average of 60% described by SDCWA and much less than its current level of reliance in 2019 of approximately 30%.

MWD Service Area Resources Mix

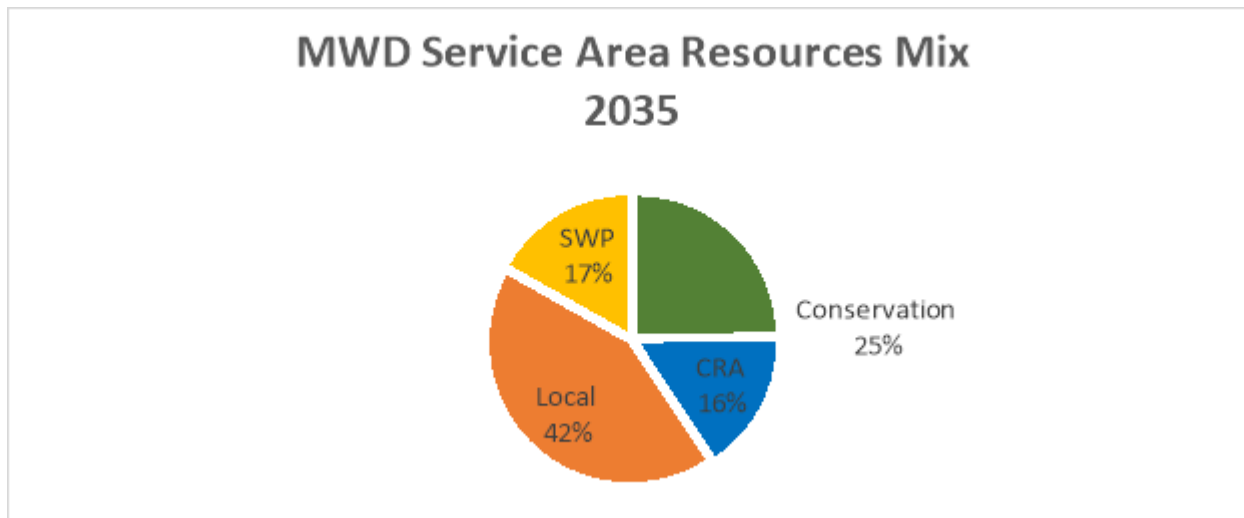


As noted by Delta Watermaster Michael George in his September 17, 2020 email to Sandy Kerl,

In pursuit of the State’s effort to reduce reliance on the Delta as a water supply source, the Council included in the Delta Plan a regulatory policy [WR P1: Reduce Reliance on the Delta through Improved **Regional Water Self-Reliance**].³⁵

³⁵ George Email. (Emphasis added.)

In WR P1 savings from water conservation is considered a new supply for purposes of calculating reduced reliance. If projected savings through water conservation is factored into the amount of reliance³⁶ MWD's percent reliance is further reduced to 17% and not the 60% dependent SDCWA inaccurately portrays.



3. Reduced reliance is a regional effort made up of the collective actions of all individual water suppliers in the MWD service area to reduce reliance

Claiming that increased reliance on the Delta by MWD can be determined by just assessing MWD's percentage of SWP and Colorado River supply negates the efforts being undertaken by all MWD member agencies and sub-agencies like FPUD. By providing that regional perspective only for SDCWA in the future is misleading and disconnected from the actual meaning and requirements set out by the State of California in determining reduced reliance. Despite SDCWA's portrayal, MWD's reduced reliance on the Delta is assessed by the contributions of all its member agencies and sub-agencies to regional self-reliance as required by Section 85021 and consistency with Delta Plan Regulation WR P1.

4. Reducing Salinity of Colorado River Water is A Priority of SDCWA and A Benefit

SDCWA wants LAFCO to believe that the blending of SWP water and SDCWA Colorado River supplies is a trivial byproduct of its Exchange Agreement with MWD. Blending Colorado River water with SWP water has never been and will never be a trivial issue for water deliveries to SDCWA. In fact water quality, in terms of the higher salinity of Colorado River water, is another key driver of the water supply mix for the Skinner Service Area. The following is excerpted from MWD's 2015 UWMP:

The State Water Resources Control Board's Division of Drinking Water (DDW), formerly the California Department of Public Health, established a secondary drinking water standard for salinity, commonly expressed as total dissolved solids (TDS), with a recommended maximum contaminant level (MCL) of 500 milligrams per liter (mg/L) and upper limit MCL of 1,000 mg/L. Imported water from the Colorado River has high

³⁶ 23 CCR § 5003(c)(1), ("For the purposes of reporting, water efficiency is considered a new source of water supply, consistent with Water Code section 1011(a).").

salinity levels, so it must be blended (mixed) with lower-salinity water from the SWP to meet salinity management goals. Higher salinity levels in Colorado River water would increase the proportion of SWP supplies required to meet Metropolitan’s Board-adopted imported water salinity objectives.³⁷

Specifically, because of the salinity impacts of Colorado River water MWD operates its water delivery system in a manner to provide its member agencies a higher quality of water e.g. less salinity. MWD accomplishes this by blending higher salinity Colorado River water with less saline SWP project supplies to provide that benefit. To address these concerns and comply with a secondary drinking water standard the MWD Board approved a Salinity Management Policy on April 13, 1999. The 2015 MWD UWMP states that:

The policy set a goal of achieving salinity concentrations in delivered water of less than 500 mg/L TDS when practical, understanding that hydrologic conditions will make this infeasible at times. It also identified the need for both local and imported water sources to be managed comprehensively to maintain the ability to use recycled water and groundwater. To achieve these targets, lower TDS SWP water supplies are blended with Colorado River supplies.³⁸

SDCWA had long advocated for blending Colorado River water with less saline SWP water and was a strong supporter of MWD adopting the 1999 Board policy.

Such support for the blending policy was reflected in a March 5, 1998 letter from then SDCWA General Manager, Maureen Stapleton, to the General Manager of MWD stressing the importance of the blend of SWP and Colorado River water to SDCWA.

The long-term blending policy must reduce the severe economic impacts to consumers and impediments to local supply development, resulting from the high TDS levels in Metropolitan's Colorado River deliveries.³⁹

5. SDCWA Continues to Support Salinity Reduction of Colorado River Supplies in 2020 Regional Conveyance Study

SDCWA also recognized the benefits of lower salinity Colorado River water in its recent *Regional Colorado River Conveyance Study* released in August 2020. That study provided a detailed engineering analysis of a potential independent Colorado River Conveyance pipeline to bring SDCWA’s Colorado River supplies to San Diego County without utilizing MWD facilities. Included in that Feasibility Study were large scale treatment facilities to reduce the salinity of SDCWA’s Colorado River supplies to the equivalent of the MWD Board Policy, 500 mg/l TDS.⁴⁰ ***The estimated capital cost is \$600 to \$800 Million with an annual operating cost in excess of \$43 million.***⁴¹ As reflected in the potential cost to independently meet the

³⁷ These same points and the reference to MWD Salinity Management Policy are made in SDCWA’s UWMP Chapter 7.1.1 and 7.2.2.

³⁸ MWD Board approved Salinity Management Policy 2000.

³⁹ March 5, 1998 Letter from Maureen Stapleton to John “Woody” Wodraska re MWD's Salinity Management Plan. (Emphasis added.)

⁴⁰ The target TDS in the RCS was 500 mg/l, equivalent to the MWD Board Policy.

⁴¹ Regional Conveyance System Study - Phase A. (Emphasis added.)

MWD salinity target it is clear that this is an important and critical benefit SDCWA receives and a benefit that they have been able to place a dollar value upon.

➤ **CONCLUSION:**

The use of SWP water for deliveries to FPUD or RMWD is not governed, as SDCWA contends, by the amount of its QSA supplies, but rather by meeting the water demand and water quality requirements of the entire Skinner Service Area. SDCWA's QSA supplies along with MWD's Colorado River water and SWP supply collectively meet all the requirements of the MWD member agencies served by MWD in the Skinner Service Area. That reality is embedded throughout the SDCWA-MWD Exchange Agreement. MWD must manage the delivery of supplies to its member agencies within the physical constraints of its water distribution system, the need to meet the water demand of its member agencies and to meet the water quality standards set by MWD Board policy and state and federal drinking water standards. SDCWA has consistently over a period of decades recognized that importance through its long term advocacy and support for the MWD Board's Salinity Management Policy, in the 2003 Exchange Agreement and the inclusion of large scale desalination treatment facilities in SDCWA's recent *Regional Colorado River Conveyance Study*.

It is very clear that SDCWA does not consider the blending of SWP and Colorado River supplies to be a trivial indirect benefit of MWD deliveries of water to San Diego County. It is a primary outcome. SDCWA has never given an indication it would support a change by MWD in the blending of SWP water with Colorado River in the Skinner Service Area even if that change were physically possible.

C. **SDCWA Claim #3- "By looking at overall system demand, one can clearly see the increased reliance on the Bay Delta that detachment, and annexation into Eastern, will promote."**⁴²

Response to SDCWA Claim #2: Under Reorganization FPUD and MWD will continue to reduce their reliance on the Delta consistent with Regulation WR P1.

The main point SDCWA seems to be trying to make is that the shifting of delivery of water to FPUD by MWD from SDCWA to EMWD as a result of the Reorganization will in some way increase the total use of SWP supplies by MWD. Through its consultant, Rod Smith of Stratecon, SDCWA concludes that:

The detachment will increase Southern California's reliance on Northern California for water supplies. Eastern's Technical Memorandum asserts the contrary by assumption. It fails to mention, let alone analyze, the role of the Water Authority's historic agreements with IID and the Coachella Valley Water District in the Water Authority's water sources and how the Water Authority uses QSA water.⁴³

⁴² Combined Response, Page 97.

⁴³ See, Combined Response, Exhibit 49, Page 9 (September 1, 2020 Letter from Rod Smith, Stratecon, to Mark Hattam SDCWA General Counsel RE: Impact of Fallbrook and Rainbow Detachment on Southern California's Reliance on the Bay Delta).

The Colorado River has historically been the major source of imported water for southern California and will continue to significantly reduce reliance on the Delta. Although SDCWA's QSA supplies did not create "new" water, all water agencies recognize that SDCWA's agreements with IID, Coachella and MWD provided long term certainty that those historic supplies will continue to be beneficially used by urban southern California. For over 60 years MWD benefited by using surplus Colorado River water unused by other states. SDCWA's IID Transfer and Canal Lining agreements were part of a collective effort by California's Colorado River water users, including MWD, to respond to the legal requirement of the landmark US Supreme Court Case Arizona v California that California live within its 4.4 Million Acre Foot (MAF) allotment of Colorado River water.⁴⁴ That fact is not ignored nor in dispute. It is an important part of the MWD service area's overall efforts along with many other activities, to reduce reliance on the Delta.

Once again, SDCWA and its consultant (Mr. Smith of Stratecon) seem to be neglecting the fact that SDCWA is a member agency of MWD and part of the region receiving supply from the Delta watershed. Mr. Smith and SDCWA also seem to be operating in a vacuum that the only factor reducing southern California's reliance on the Delta is SDCWA's Colorado River supply Agreements. SDCWA cautions LAFCO that if its total demand for water drops below its contractual commitments for QSA water it will not fully utilize those supplies and that will result in increased reliance on the Delta. This perspective fails to note that many other water suppliers in the MWD service area are implementing strategies to reduce reliance on the Delta and meet the state's requirements for demonstrating that reduction. To put this in perspective in calculating reduced reliance, the MWD region has a total demand before conservation of over five million acre feet. For every 10% or 30,000 acre feet of QSA supplies not used by SDCWA, the region's reduced reliance is affected by less than 0.6%. As reduced reliance is determined by the percentage or acre feet reduction in use of Delta supplies from an historic baseline, the predominant trend of overall regional self-reliance would not be affected. Water agencies like FPUD, EMWD and many others in the MWD region are also contributing to reduced reliance by making the investments required under Section 85021 and consistent with WR P1. MWD itself has invested and continues to invest in Colorado River storage and agricultural water transfers that are intended to make up for shortfalls in available supply and maximize use of its Colorado River Aqueduct. There are many factors in the MWD service area contributing to reduced reliance in addition to SDCWA's QSA supplies.⁴⁵

1. WR P1 is the State of California Guidance that LAFCO Should Use to Determine Reduced Reliance

A previous discussion in this Memorandum describes how all three agencies (FPUD, EMWD and MWD) are significantly contributing to reduced reliance on the Delta in conformance with Section 85021. A previous discussion also addressed the role of the Delta Stewardship Council's process for determining consistency with Delta Plan requirements to demonstrate reduced reliance for covered actions occurring in the Delta (WR P1). As noted by Delta Watermaster Michael George in his September 17, 2020 email to SDCWA General Manager Sandy Kerl, relative to the proposed Reorganization:

⁴⁴ Arizona v. California, 373 U.S. 546 (1963).

⁴⁵ MWD 2015 RUWMP and IRP Availability of Colorado River Supplies.

De-annexation, if approved by LAFCO and carried out by those local water suppliers, would not be a “covered action,” because it does not involve any physical activity within the Delta. Therefore, the required consistency with WR P1 would not be triggered directly.⁴⁶

WR P1 requires that covered actions must comply with to certify consistency with the Delta Plan. In their statements about increased reliance by FPUD and MWD on Bay Delta supplies, SDCWA and its consultant (Mr. Smith of Stratecon) are implying that approval of the Reorganization will not comply with WR P1 in the context of a covered action. Mr. George in his September 17, 2020 email also notes the relevance of individual agency compliance with WR P1 in the 2018 consistency determination for the California WaterFix project:

Because DWR was unable to demonstrate that all of the suppliers who received water from the SWP had taken appropriate steps to reduce their reliance on the Delta supply source, the Council’s staff recommended that the appeal be upheld.

Mr. George further states the upcoming relevance of WR P1:

The SWP is currently pursuing a single tunnel alternative conveyance project within the Delta to support SWP exports. Assuming that project stays on track, DWR will again have to certify that it is consistent with the Delta Plan, including WR P1.

SDCWA focuses on MWD increasing its reliance on the SWP if the Reorganization is approved. It is important to clarify that Mr. George’s statement that the Delta Stewardship Council upheld the appeal that DWR was unable to demonstrate that *all* suppliers were complying with WR P1, did not pertain to MWD and its wholesale and retail urban water suppliers. The failure to demonstrate reduced reliance in the WaterFix certification was noted in the Delta Stewardship Council’s written Determination on the appeals and the shortcoming was, in part, specific to certain SWP agricultural water suppliers and Central Valley Project suppliers.

The Department (DWR) has not provided all of the information required under subdivision (a)(1). ***Notably, it has not required any of the information for State Water Project agricultural water suppliers or Central Valley Project suppliers.*** Without that information, the Department cannot reasonably show that the failure to comply with subdivision (a)(1) did not cause the need for California WaterFix or that it was not a significant cause.⁴⁷

The MWD service area has been the most active and successful region in the state in reducing reliance on the Delta. DWR in its Certification of Consistency with the Delta Plan stated inclusive of the MWD Service area that:

⁴⁶ George Email.

⁴⁷ Delta Stewardship Council, Determination Regarding Appeals of the Certification of Consistency, Page 61. (Emphasis added.)

The analysis concludes that on the whole State Water Contractors urban water suppliers that could receive water supply reliability benefits from California WaterFix are making measurable reductions in Delta reliance through improvements in regional self-reliance.⁴⁸

DWR's statement was backed-up by substantive evidence documented in MWD's UWMP and Integrated Resources Plan (IRP) which demonstrated a long term reduction in reliance on the SWP through 2040.⁴⁹ Although not specifically cited by the Delta Stewardship Council in the Staff Determination the approval of the appeal relative to WR P1 was not based on MWD's failure to provide quantitative information or lack of being able to demonstrate long term reduced reliance.

2. WR P1 is the Only Determinant of Reduced Reliance

WR P1 provides the best test of whether approval of the Reorganization will be at odds with WR P1 and contrary to the regulation used to determine reduced reliance on the Delta. The foundational document used in WR P1 is a water supplier's Urban Water Management Plan (UWMP). The heart of determining reduced reliance in WR P1 is the following paragraph:

(C) Included in the Plan, commencing in 2015, the expected outcome for measurable reduction in Delta reliance and improvement in regional self-reliance. ***The expected outcome for measurable reduction in Delta reliance and improvement in regional self-reliance shall be reported in the Plan as the reduction in the amount of water used, or in the percentage of water used, from the Delta watershed.*** For the purposes of reporting, water efficiency is considered a new source of water supply, consistent with Water Code section 1011(a).⁵⁰

DWR, the agency responsible for setting the requirements for UWMPs, did not require reporting reduced reliance in the 2015 UWMP. It has done so for the 2020 Plan which will include demonstrating an agency's status of reduced reliance in 2015. The Draft DWR Guidebook for preparing the quantitative analysis to demonstrate reduced reliance provides the following steps in conducting the analysis:⁵¹

- Setting a Baseline
- Change in Delivery of Delta Water
- UWMP WR P1 Consistency Reporting
- Example Data Analysis and Supporting Documentation
- Steps in Example Approach
- Documenting Implementation Actions

All agencies including FPUD will be conducting a comprehensive analysis of reduced reliance on the Delta consistent with complying with WR P1. It is beyond the scope of this Memorandum to conduct the full 2020 UWMP analysis of reduced reliance for FPUD or any other agency. That analysis will be more thorough and refined than the analysis set out in this Memorandum. What can be demonstrated to LAFCO through a simplified and preliminary analysis using past UWMPs and other official planning documents is

⁴⁸ California WaterFix Certification of Consistency, July 2018, at Pages 3-44.

⁴⁹ California WaterFix Certification of Consistency, July 2018, Attachment 1, at Pages 26-27.

⁵⁰ 23 CCR §5003(c)(1)(C). (Emphasis added.)

⁵¹ Draft DWR Guidebook, Appendix C, starting at Page C-6.

whether FPUD and MWD are demonstrating reduced reliance on the Delta consistent with WR P1 “**as the reduction in the amount of water used, or in the percentage of water used, from the Delta watershed.**”

According to the DWR Guidebook the first step is to set a historic baseline of Delta use for comparative purposes. DWR explains:

This baseline is the amount of Delta water used historically that will be compared to current and projected future Delta water use in order to calculate how Delta water use and regional self-reliance have changed over time.⁵²

DWR provides an example analysis in the Draft DWR Guidebook and “uses 2010 as a baseline because the Delta Reform Act was enacted in 2009 and became effective in 2010.” DWR notes the importance of the historic baseline as “[u]sing the same, fixed baseline in each UWMP allows Suppliers to have a consistent value with which current and future Delta water use can be compared.”⁵³

The following analysis uses the Draft DWR Guidebook to establish an historic Baseline of FPUD Reliance on the Delta and a projection of FPUDs reliance in 2025 under the proposed Reorganization. Those are the only factors that should be considered by LAFCO in assessing whether Reorganization will result in increased reliance on the Delta.

a. Establishment of Historic Baseline

In the Draft DWR Guidebook, DWR advises water agencies on how to establish an historic Baseline for reliance on Delta supplies.

C.3.4.1 Actual vs. Average-Year Data

For the purposes of quantifying reduced reliance, it is best that data provided **reflect an average-year or normal condition, not actual conditions**. Actual conditions in a single year are highly influenced by the hydrologic conditions in that year, as well as additional things such as the implementation of statewide conservation regulations and economic factors. Normal or average-year projected conditions incorporate the effects of a large range of hydrologic conditions on forecasts of supplies and demands. Generally, the normal or average-year results shown in a UWMP reflect the average of all modeled hydrologic outcomes under normal demand (usage) conditions.⁵⁴

DWR further offers a recommendation for what year to use as the Baseline to compare future years against.

C.3.5.1 Example Baseline: 2010

This example uses 2010 as a baseline because the Delta Reform Act was enacted in 2009 and became effective in 2010.⁵⁵

Using DWR’s Guidance establishment of 2010 as the historic baseline is based on the average weather year forecasts of the 2005 UWMPs of MWD, SDCWA and FPUD. As the Draft DWR Guidebook states:

⁵² Draft DWR Guidebook, Appendix C, starting at Page C-6 – C-7.

⁵³ *Id.* at C-7.

⁵⁴ Draft DWR Guidebook, Appendix C, starting at Page C-9 – C-10. (Emphasis added.)

⁵⁵ Draft DWR Guidebook, Appendix C, Page C-12.

In order to provide “the expected outcome for measurable reduction in Delta reliance”, the demonstration of reduced reliance will need to also include projected future Delta water use and compare that to baseline water use.⁵⁶

2025 is selected as a future year under the proposed Reorganization and utilizes the average year projections from the three agencies 2015 UWMP.

Establishing MWD Regional Self-Reliance on the Delta 2010 vs 2025

| | <u>2010</u> | <u>2025</u> |
|--|--------------------|--------------------|
| <u>Total MWD Demand Before Conservation (Acre Feet)</u> | 5,520,000 | 5,393,000 |
| <u>Water Conservation Savings</u> | 955,000 | 1,127,000 |
| <u>Local Supplies</u> | 2,223,000 | 1,349,000 |
| <u>SDCWA QSA Supplies</u> | 170,000 | 282,000 |
| <u>Demand On MWD</u> | 2,262,000 | 1,635,000 |
| <u>Colorado River</u> | 711,000 | 686,000 |
| <u>State Water Project</u> | 1,551,000 | 949,000 |
| <u>Percent of MWD Supply from Delta</u> | 69% | 58% |
| <u>Percent Reliance on Delta to Total MWD Service Area Supply</u> | 28% | 18% |

Using FPUD’s 2015 UWMP projection of its 2025 resource mix and MWD’s percent reliance on Delta supplies for its imported water use the following trend is estimated:

Calculating FPUD Reliance on Delta

| | <u>2010</u> | <u>2025</u> |
|--------------------------------------|-------------------------------|--------------------|
| Total Consumptive Demand (AF) | 16,629 | 12,384 |
| Total Demand For Imported Water (AF) | 16,149 | 7,684 |
| | <i>SDCWA QSA Supply</i> 4,152 | NA |
| | <i>MWD Supply</i> 11,997 | 7,684 |
| Percent Dependent on MWD | 72% | 62% |
| Percent MWD Reliance on Delta | 28% | 18% |
| Percent FPUD Reliance on Delta (%) | 20% | 11% |
| FPUD Reliance on Delta (AF) | 3,359 | 13,83 |

⁵⁶ Draft DWR Guidebook, Appendix C, Page C-8.

As SDCWA advocates reduced reliance on the Delta can be analyzed based on estimating MWD use of SWP water to its total water supply. In that case the following modifications would apply

| | 2010 | 2025 |
|---|-------------------------|---------------|
| Total Consumptive Demand (AF) | 16,629 | 12,384 |
| Total Demand For Imported Water (AF) | 16,149 | 7,684 |
| | <i>SDCWA QSA Supply</i> | <i>4,152</i> |
| | <i>MWD Supply</i> | <i>11,997</i> |
| Percent Dependent on MWD | 72% | 62% |
| Percent MWD Reliance on Delta (MWD Supply Only) | 69% | 58% |
| Percent FPUD Reliance on Delta (%) | 50% | 36% |
| FPUD Reliance on Delta (AF) | 8,278 | 4,660 |

FPUD Reduced Reliance on the Delta 2010 versus 2025 under Reorganization

| | <u>FPUD Historic Baseline</u> <u>2010⁵⁷</u> | <u>Projected FPUD 2025</u> | <u>Change in Percentage</u> <u>Increase /((Decrease)</u> |
|---|---|-----------------------------------|---|
| Percent Reliance Using Total MWD Service Area Supply | 20% | 11% | (9%) |
| Amount of Delta Supply Used as Total MWD Supply (AF) | 3,359 | 1,383 | (1,976) |
| Percent Reliance Using Only MWD Supply from Delta | 50% | 36% | (14%) |
| Amount of Delta Supply Using Only MWD Supply from Delta (AF) | 8,278 | 4,460 | (3,818) |

Using the DWR methodology it is clearly demonstrated that under approval of the Reorganization both MWD and FPUD will achieve substantially reduced reliance on the Delta consistent with WR P1. This is accurate from the standpoint of providing MWD the same regional benefit of the local supplies produced by all of its member agencies as SDCWA afforded itself or by just analyzing MWD supplies on its own as

⁵⁷ Takes into account SDCWA 2010 QSA supplies and FPUD water recycling per SDCWA and FPUD 2010 UWMPs.

SDCWA advocated. It is also clear from this analysis that FPUD, with its reduced water use and implementation of its SMR CUP local supply project, will reduce its dependence on the Delta in 2025 by at least 45% from its 2010 baseline as expressed as a percent reliant and by a minimum of 50% in the amount of acre feet used.

It is important to note in this analysis that FPUD's total demand for water projected for 2025 in its 2015 UWMP is 33% higher than its actual FY 2020 water use. Because FPUD's 2020 UWMP is being currently prepared, a new long range water demand forecast is under development. It is expected that changes in water use since 2015 will result in a lower water demand forecast for 2025 which would further demonstrate a decrease FPUD's dependence on the Delta for water supply under Reorganization.

- **CONCLUSION: UNDER REORGANIZATION FPUD AND MWD WILL CONTINUE TO REDUCE THEIR RELIANCE ON THE DELTA CONSISTENT WITH REGULATION WR P1.**

III. CLOSING SUMMARY

The State of California sets out clear guidance and specific methodologies on how reduced reliance on the Delta is factually determined. Section 85021 and Delta Plan Policy WR P1 are the sole means of measuring that determination. Based on those facts there is no merit to SDCWA's claim that approval of the proposed Reorganization will result in increased reliance on the Delta by either MWD or FPUD or that approval of the Reorganization contravenes state policy or a legislative water supply mandate.

Consistent with state policy and adopted regulations and backed up by substantive evidence the following points reflect the accurate characterization of reduced reliance on the Delta under the proposed Reorganization:

- Compliance with state policy of reduced reliance under Section 85021 is documented in the UWMPs of FPUD, MWD, EMWD and clearly demonstrates that all three agencies are investing in the water supply strategies required in the statute.
- The 2003 Amended and Restated Exchange Agreement between SDCWA and MWD relies completely on MWD facilities to deliver SDCWA QSA supplies to San Diego County through MWD's Skinner Service Area. The physical limitations of that reliance on MWD facilities requires blending of SWP and Colorado River water to meet the full demand of the Skinner Service Area and comply with water quality standards set by the MWD Board and state and federal regulations. Blending of SWP and Colorado River supplies is a feature of the Exchange Agreement not an indirect by-product and FPUD and RMWD will continue to receive the same blend of SWP and Colorado River water under reorganization as they would as a member agency of SDCWA.
- SDCWA has long acknowledged the benefit of reduced salinity of Colorado River using SWP water and was a strong advocate of a MWD Blending policy adopted in 1999 and has supported its continuance ever since. In its recent *Regional Colorado River Conveyance Study* assessment of an independent Aqueduct to transport its QSA supplies SDCWA included desalination facilities costing between 600 Million - \$800 Million in capital costs and in excess of \$40 Million annually to achieve water quality equivalent to what MWD provides under the Exchange Agreement.

- MWD reliance on the Delta is not based solely on the percentage of its SWP supply and Colorado River water supply as SDCWA contends but is determined through the collective actions of all MWD member agencies and MWD itself. Based on the Delta Plan regulation WR P1 and DWR guidance MWD has and will continue to significantly reduce its reliance on the Delta as an amount of acre feet or as a percentage of total use. This overall trend of reduced reliance by MWD will continue even if SDCWA demand drops below its contractual commitments for QSA water.
- FPUD has made significant progress in water use efficiency and water conservation and is currently constructing the Santa Margarita River Conjunctive Use Project (SMR CUP) which will create a new reliable local water supply that will meet almost 30% of FPUD's current need for water. SMR CUP along with expansion of FPUD's non-potable water recycling system and continued gains in water use efficiency will maintain its reduced reliance on Delta supplies in the future.

As it pertains to reduced reliance on the Delta under the proposed Reorganization the following is accurate:

- FPUD, EMWD and MWD will continue to contribute to regional self-reliance in compliance with Section 85021.
- Reorganization will not increase the use of SWP water in the Skinner Service Area and MWD will continue to operate the system to meet member agency demand and water quality requirements consistent with the SDCWA- MWD Exchange Agreement.
- All water suppliers in the MWD service area will contribute to reduced reliance and under Reorganization FPUD individually will continue to reduce its reliance on the Delta consistent with Delta Plan regulation WR P1.