

September 29, 2021

VIA EMAIL

MEMBER AGENCIES

Carlsbad
Municipal Water District

City of Del Mar

City of Escondido

City of National City

City of Oceanside

City of Poway

City of San Diego

Fallbrook
Public Utility District

Helix Water District

Lakeside Water District

Olivenhain
Municipal Water District

Otay Water District

Padre Dam
Municipal Water District

Camp Pendleton
Marine Corps Base

Rainbow
Municipal Water District

Ramona
Municipal Water District

Rincon del Diablo
Municipal Water District

San Dieguito Water District

Santa Fe Irrigation District

South Bay Irrigation District

Vallecitos Water District

Valley Center
Municipal Water District

Vista Irrigation District

Yuima
Municipal Water District

**OTHER
REPRESENTATIVE**

County of San Diego

Dr. Michael Hanemann
San Diego County LAFCO
2550 Fifth Avenue, Suite 725
San Diego, CA 92103
(hanemann@berkeley.edu)

RE: Potential Exit Fees

Dr. Hanemann:

This letter is a very brief response to the submittal on September 24 by Fallbrook and Rainbow on the “exit fee” issue.¹ The Water Authority appreciates the opportunity to provide its information. We ask that this letter be provided to the Advisory Committee and all LAFCO Commissioners (it is copied to Keene Simonds and Adam Wilson, so we ask that they do so).

We make certain main points in summary “bullet-point” fashion to avoid lengthy and unnecessary argument:

- You asked the parties to comment on exit fee issue on August 9, 2021. The parties were well aware that you planned to issue your draft report on the issue the week of September 20. The Water Authority timely submitted its comments on September 2. Rainbow and Fallbrook did not submit until September 24, the day your draft report issued. We do not countenance such tactics.
- The new submittal by Fallbrook and Rainbow consists of two main parts: a legal argument by Rainbow’s counsel, and a general argument by the agencies. In regards to the legal argument, on September 18, 2020, we provided LAFCO a lengthy legal briefing on the applicable statutes, and all the associated legal issues in this proceeding. That analysis can be found on pages 152-184 of our Response. If you, LAFCO staff, the Committee, and the Commissioners read that information, we believe it clearly shows that the interpretation of the law by Rainbow’s counsel is in error. We will therefore not repeat all those arguments here.
- In regards to the other submittal, the same arguments previously made by Rainbow and Fallbrook are again restated, such as: (a) if they detach, they should not have to pay for obligations made by the Water Authority for their benefit, because no agency has any obligations; (b) they have supposedly overpaid to

¹ This letter does not respond to the content of your recent draft report. We withhold all comment on that until after the Advisory Committee meeting, as requested by Adam Wilson.

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benefit all other member agencies; (c) the Water Authority will be better off if they detach; etc. We have addressed all these issues multiple times before. However, in addition, a few key points are worth restating again:

1. These agencies represent about 6-7% of the Water Authority's revenues, and given simple economies of scale one is not "better off" when losing that volume of revenue.
2. Financial obligations are not being invented by the Water Authority, as asserted, but are stated in law *as to detaching agencies*' (and no other agencies are seeking to detach).² Section 45-11(a)(2) of the County Water Authority Act states as to detachment: "the taxable property within the excluded area shall continue to be taxable by the county water authority for the purpose of paying the bonded and other indebtedness of the county water authority outstanding or contracted for at the time of the exclusion" (and *see* similar text as to detaching agencies in Government Code section 57354).
3. Fallbrook and Rainbow have benefited from the regional planning and water supply and system investments made by the Water Authority. They continue to contend that unless a supply or reservoir is directly hooked to them, they get no benefit from it even in an emergency. This is completely incorrect. They benefit from all such investments, as water is freed up for their service areas that would not have otherwise been available. This is one of the key elements of a regional system, one they want to abandon without paying for what was committed to for their benefit, and for the benefit of all member agencies.

The Water Authority is available to address any further questions or issues related to this matter. Thank you.

Sincerely,



Mark J. Hattam
General Counsel

cc via email:

Keene Simonds, Executive Officer, San Diego County LAFCO
Adam Wilson, Moderator, San Diego County LAFCO
Holly Whatley, Counsel, San Diego County LAFCO
Sandra L. Kerl, General Manager, San Diego County Water Authority
Kristina Lawson, Counsel, San Diego County Water Authority
Jack Bebee, General Manager, Fallbrook PUD
Paula C. P. de Sousa, Counsel, Fallbrook PUD
Nick Kanetis, Deputy General Manager, Eastern MWD
Tom Kennedy, General Manager, Rainbow MWD
Alfred Smith, Counsel, Rainbow MWD
Water Authority Board of Directors

² Therefore, the comments about member agencies not being obligated on bonds and the like are off point, because the applicable laws cover obligations based on a sought detachment, not at bond or contract issuance.