

October 25, 2021

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  
Olay 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

**VIA EMAIL**

Ad Hoc Advisory Committee  
C/O Adam Wilson  
San Diego County LAFCO  
(adwilson858@yahoo.com)

**RE: Dr. Hanemann's Draft Report, and Next Steps**

Dear Advisory Committee Members:

As noted in the Water Authority's May 28, 2020, Board Resolution No. 2020-06,<sup>1</sup> the proposed detachments of Fallbrook and Rainbow will affect water users and ratepayers not only in those agencies (the Agencies), but also the customers of the other 22 agencies served by the Water Authority throughout San Diego County. For this reason, the Water Authority's Board of Directors – which has the expertise and is charged with responsibility for regional water supply planning, in collaboration with the San Diego Association of Governments (SANDAG), in San Diego County<sup>2</sup> – voted unanimously (except for “no” votes cast by the Agencies, and abstentions) to oppose detachment unless four conditions could be met. It is clear from Dr. Hanemann's Draft Report that none of the conditions has been met. Each of our Board's conditions is addressed below.

1. Have Rainbow and Fallbrook demonstrated that an equally reliable (or the “same”) water supply will be delivered to their customers at a lower cost under detachment?

Answer: No.

The Draft Report concludes just the opposite, namely that water supply reliability for the Agencies' customers will be materially reduced under detachment. The Draft Report squarely rejects claims by the Agencies that their customers will continue to receive the “same water” under detachment. Further, the Draft Report concludes that MWD rates will need to increase in order to pay for major infrastructure projects essential to providing a reliable supply and managing climate change.

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<sup>1</sup> Copy attached.

<sup>2</sup> See Water Authority's September 18, 2020, Response to Reorganization Applications at pp. 25-31. Also see attached Memorandum of Agreement between the Water Authority and SANDAG.

2. Have Rainbow and Fallbrook demonstrated that detachment will not adversely affect other Water Authority member agencies and San Diego County as a region financially or environmentally?

Answer: No.

The Draft Report concludes just the opposite, namely that if an uncompensated detachment occurs, rates for the rest of the Water Authority's member agencies will necessarily increase.<sup>3</sup>

3. Have Rainbow and Fallbrook demonstrated that detachment will not increase reliance on the Bay Delta?

Answer: No.

The Draft Report shows that detachment will necessarily increase demand on Bay Delta supplies.

4. Have Rainbow and Fallbrook demonstrated that detachment will not result in a diminution of the Water Authority's voting power at MWD to represent the interests of all San Diego County ratepayers and property owners?

Answer: No.

This issue is not addressed by the Draft Report because it is not within Dr. Hanemann's scope of work. It is however an important issue. There are many other such issues that are in the Advisory Committee's scope of work, but are yet to be addressed, including:

- Proper CEQA review, including for the increased use of water from the environmentally sensitive Bay-Delta region.
- Requisite infrastructure changes, particularly in Rainbow's service area, and what the actual costs and environmental impacts of such changes may be.
- Analysis of whether the applications comply with, further, or hinder requisite State law as to water use from the Bay-Delta.
- Impacts on San Diego County water ratepayers and taxpayers by allowing lands in San Diego County to be annexed into a Riverside County water district, resulting in a diminution of San Diego County's voting rights at MWD.
- Impacts on regional water planning by SANDAG and the Water Authority by allowing agencies to detach from the Water Authority, including the risk that other agencies may

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<sup>3</sup> We address here only the Draft Report's conclusion that detachment will impact other Water Authority member agencies and their customers, not Dr. Hanemann's ideas about what an appropriate exit fee might be. Based on the Draft Report's findings and conclusions, which do not support the claims made by the Agencies, and legal and other issues yet to be considered (see next steps discussion below), it is premature to determine what an appropriate exit fee might be. However, given the issue is included in the Draft Report, Water Authority staff are today providing preliminary comments in separate correspondence to Dr. Hanemann.

seek to detach.

- The risk that detachment will lower the credit rating of the Water Authority, forcing the rest of its member agencies to fund higher interest charges.
- The water supply risk caused by potential earthquakes, particularly on the Elsinore Fault.
- Cost savings for Fallbrook and Rainbow that could be achieved through consolidation, as LAFCO staff recommended a few years ago.
- Consideration of other factual information listed by the Water Authority on pages 147-151 of our September 18, 2020, Response.
- The legal requirements for an “exit fee” upon detachment.
- Potential voting on the detachment issue throughout the Water Authority service area, and not just in Fallbrook and Rainbow.

#### Next Steps

The Water Authority sent a letter to LAFCO on October 8, 2021, requesting clarification as to how the remaining issues assigned to the Advisory Committee will be completed. The Agencies’ attorneys responded on October 15, 2021, arguing that, “*all of the activities for this committee, as set out in the Commission’s action’s actions on June 1, 2020 have either been addressed, are in the process of being addressed, or are simply not needed for the Executive Officer to deem the applications complete.*” Contrary to these statements, we are not aware of how the remaining issues are being addressed and certainly have not received any indication that resolution of these issues by the Advisory Committee are “simply not needed.” As of today’s date LAFCO has not yet responded. The Water Authority has requested a meeting with all parties at the earliest possible time with LAFCO staff and legal counsel.

The Advisory Committee has significant work before it. We look forward to addressing these issues with you.

Sincerely,



Sandra L. Kerl  
General Manager

Enclosures

LAFCO Ad Hoc Advisory Committee

October 25, 2021

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cc via email:

Keene Simonds, Executive Officer, San Diego County LAFCO

Holly Whatley, Counsel, San Diego County LAFCO

Dr. Michael Hanemann, LAFCO Consultant

Mark Hattam, General Counsel, 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

Water Authority Board of Directors

RESOLUTION NO. 2020-06

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
SAN DIEGO COUNTY WATER AUTHORITY ADDRESSING  
POTENTIAL DETACHMENT OF FALLBROOK PUBLIC  
UTILITIES DISTRICT AND RAINBOW MUNICIPAL WATER  
DISTRICT AND ANNEXATION OF THOSE DISTRICTS INTO  
EASTERN MUNICIPAL WATER DISTRICT-06

The San Diego County Water Authority (“**Water Authority**”) is a county water authority established in 1944 under the County Water Authority Act (“**Act**”), that has provided water to its member agencies throughout San Diego County since World War II.

The Fallbrook Public Utilities District (“**Fallbrook**”) was a founding member agency of the Water Authority in 1944 and Rainbow Municipal Water District (“**Rainbow**”) has been a member agency of the Water Authority since 1954.

In March 2020, Fallbrook and Rainbow filed applications with the San Diego County Local Agency Formation Commission (“**San Diego LAFCO**”) seeking detachment from the Water Authority and annexation into Riverside County’s Eastern Municipal Water District.

The proposed detachment will affect water users and ratepayers in Fallbrook and Rainbow, as well as other member agencies and their ratepayers throughout the County of San Diego.

NOW, THEREFORE, the Board of Directors of the San Diego County Water Authority resolves the following:

1. Given the significant and unprecedented nature of the proposed detachments, and in order to protect ratepayers in Rainbow, Fallbrook, and the remainder of the Water Authority’s service area, the Water Authority recommends that San Diego LAFCO conduct a comprehensive evaluation of the impacts of the detachment proposals, including financial, water supply reliability, governmental, and environmental impacts, and ensure that the public and all affected agencies have a meaningful and balanced opportunity to engage in the evaluation process.

2. Given the Water Authority’s obligation to provide an adequate, reliable, and affordable source of water for all of San Diego County, the Water Authority will oppose detachment by Rainbow and Fallbrook unless:

a. It can be determined by what means Rainbow and Fallbrook can guarantee that all obligations as promised to their own ratepayers are met;


b. It can be demonstrated that detachment will not adversely affect other Water Authority member agencies and San Diego County as a region financially or environmentally;

c. It can demonstrated that detachment and then annexation into Riverside County’s Eastern Municipal Water District will not increase reliance on the Bay-Delta; and

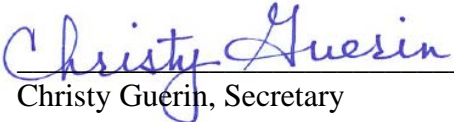
d. It can be demonstrated that detachment will not result in a diminution of the Water Authority's voting power at MWD to represent the interests of all San Diego County ratepayers and property owners.

PASSED, APPROVED, and ADOPTED this 28<sup>th</sup> day of May, 2020 by the following vote:


AYES:	Unless noted below all Directors voted aye.
NOES:	Bebee and Kennedy.
ABSTAIN:	None.
RECUSAL:	Ayala and Cate.
ABSENT:	Boyle, Simpson, Steiner, and Preciado (P).

  
Jim Madaffer, Chair

ATTEST:

  
Christy Guerin, Secretary

I, Melinda Nelson, Clerk of the Board of the San Diego County Water Authority, certify that the vote shown above is correct and this Resolution No. 2020- 06 was duly adopted at the meeting of the Board of Directors on the date stated above.

  
Melinda Nelson, Clerk of the Board

MEMORANDUM OF AGREEMENT BETWEEN  
THE SAN DIEGO COUNTY WATER AUTHORITY AND  
THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG)  
ESTABLISHING IMPLEMENTATION OF THE  
REGIONAL GROWTH MANAGEMENT STRATEGY'S SECTION ON WATER

WHEREAS, Proposition C, the Regional Planning and Growth Management Review Measure, was approved by the voters of San Diego County in 1988, and provided for a Regional Planning and Growth Management Review Board to create a Regional Growth Management Strategy; and to resolve problems associated with transportation management, solid and hazardous waste management, water supply and water quality, wastewater treatment, air quality, sensitive lands preservation, housing, and economic prosperity; and

WHEREAS, the San Diego Association of Governments (SANDAG) serves as the Regional Planning and Growth Management Review Board; and

WHEREAS, the Regional Growth Management Strategy proposes that the Authority enter into a Memorandum of Agreement as an indication of its intent to participate in the implementation of the Strategy's chapter on water; and

WHEREAS, the Board of Directors of the San Diego County Water Authority adopted Resolution 92-50 on September 10, 1992, approving the revised water section of the Regional Growth Management Strategy, which establishes standards and objectives relating to water supply;

NOW THEREFORE BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the San Diego County Water Authority and the San Diego Association of Governments as follows:

1. Implementation of the Strategy's Recommended Actions

The Authority hereby agrees to implement the relevant actions contained in the Strategy's chapter on water and amend its plans, policies and ordinances as necessary to accomplish those actions.

2. Notification Regarding Changes to Plans and Programs

The Authority hereby agrees to notify SANDAG of any changes in standards, objectives, plans or programs that would affect the Strategy's chapter on water.

3. Participation in the Strategy's Monitoring Function

A regular monitoring report shall be prepared by the SANDAG Board and made available to the Authority on a timely basis to assess the success of the Strategy in meeting the Quality of Life Standards and Objectives. The Authority hereby agrees to provide the SANDAG Board with information to assist in the preparation of the regular monitoring report.

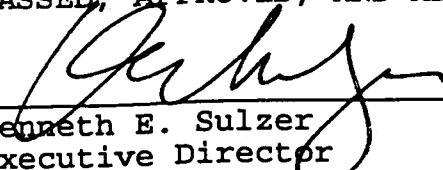
4. Use of SANDAG's Regional Growth Forecasts

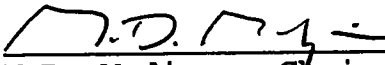
The Authority hereby agrees to use SANDAG's most recent regional growth forecasts for planning purposes. These forecasts will provide a basis for the Authority to plan the amount and types of facilities needed to serve the forecast population.

BE IT FURTHER RESOLVED that it is the intent of this agreement to assure consistency between the plans, policies and ordinances of the cities and County, and the plans and programs of the Authority. This assurance is based upon the agreement by these agencies that their plans and programs are consistent with the Strategy's chapter on water.

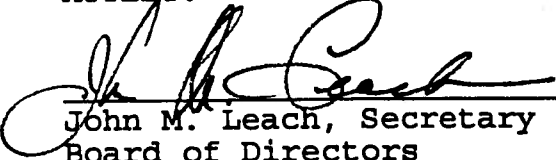
BE IT FURTHER RESOLVED that this Agreement shall be effective between SANDAG and the Authority as of the date of execution of the Agreement, and may be terminated by either party upon written 30-day notice.

PASSED, APPROVED, AND ADOPTED this 8th day of October, 1992.

  
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Kenneth E. Sulzer  
Executive Director  
San Diego Association  
of Governments (SANDAG)

  
\_\_\_\_\_  
M.D. Madigan, Chairman  
Board of Directors  
San Diego County Water Authority

ATTEST:

  
\_\_\_\_\_  
John M. Leach, Secretary  
Board of Directors

I, Janet R. Maltman, Executive Secretary of the Board of Directors of the San Diego County Water Authority, do hereby certify that the above and foregoing is a full, true and correct copy of the Memorandum of Agreement No. 1 of said Board and that the same has not been amended or repealed.

  
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Janet R. Maltman  
Executive Secretary  
Board of Directors  
San Diego County Water Authority