

February 8, 2022

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**

Mr. Adam Wilson, Moderator  
San Diego County LAFCO  
(adwilson858@yahoo.com)

Re: Ad Hoc Committee Meeting February 17, 2022

Dear Mr. Wilson:

This letter pertains to the upcoming Ad Hoc Committee meeting on February 17, 2022. The Water Authority asks that this letter be distributed to all LAFCO Commission members, and all Ad Hoc Committee members.

The Water Authority assumes the Ad Hoc Committee will have an opportunity to discuss in depth the recent report completed by LAFCO's consultant Dr. Michael Hanemann, and we look forward to that discussion. However, as you know, the scope of Dr. Hanemann's work was limited to water supply reliability, rate, and potential exit fee issues. As important as those issues are, they are only a subset of the issues the Ad Hoc Committee was to consider.

Here is a list of what we consider to be additional important issues, not covered by LAFCO's Hanemann report, that the Ad Hoc Committee should have an opportunity to discuss thoroughly:

1. 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 Metropolitan Water District of Southern California.
2. Whether the applications comply with, further, or hinder requisite State law as to water use from the Bay-Delta.
3. The water supply risk caused by potential earthquakes, particularly on the Elsinore Fault, and the risks for Rainbow and Fallbrook in having access only to water from the north (via MWD), versus from north and south via the Water Authority.
4. 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 seek to detach.

5. Proper CEQA review, including for the increased use of water from the environmentally challenged Bay-Delta region.
6. Requisite infrastructure changes, particularly in Rainbow's service area, and what the actual costs and environmental impacts of such changes may be.
7. 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.
8. Cost savings for Fallbrook and Rainbow that could be achieved through consolidation, as LAFCO staff recommended a few years ago.
9. Potential voting on the detachment issue throughout the Water Authority service area, and not just in Fallbrook and Rainbow.
10. Consideration of other factual information listed by the Water Authority on pages 147-151 of our September 18, 2020, Response.
11. Review of legal issues related to reorganization.

It should be noted that LAFCO instructed the Ad Hoc Committee to review wide-ranging matters related to the proposed reorganization, and not just the issues addressed in the LAFCO Hanemann report.

Step Two of the Committee's tasks, as outlined by LAFCO in the agenda materials of June 1, 2020, is entitled "Evaluating the Proposals" and entails the following tasks set by LAFCO for the Committee (numbered for identification):

1. Review Stakeholder Comments
2. Input on Consultant Analysis
3. Consider Standard Jurisdictional Change Factors in Statute
4. Identify and Consider Local Factors
5. Discuss Appropriate Measurables
6. Identify and Consider Alternative Options
7. Identify and Consider Potential Terms [of detachment from SDCWA]
  - a. Compensation [i.e. "exit fee"]
  - b. Infrastructure Improvements
  - c. Special Assessments/Taxes
  - d. Expanded Vote

By way of example, all of the Water Authority subject areas listed in items 1-11 above fit squarely in Category 1 on the LAFCO list (Stakeholder Comments), as they are all in detailed comments submitted by the Water Authority in its September 18, 2020, response. Yet not a single one of them has been covered by the Ad Hoc Committee yet. Also, it is noteworthy that discussions of the LAFCO Hanemann report, though important for the Committee to have, is just one of the seven categories specified by LAFCO (Category 2 on the LAFCO list above).

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In addition to the above, it is also important that the Ad Hoc Committee at its February 17 meeting review and discuss the recent draft Municipal Service Review submitted to LAFCO by its staff for the Fallbrook region. The LAFCO Commission at its February 7 meeting specifically continued that public hearing to March so that the Committee could discuss the MSR.

Therefore, we respectfully request that the Ad Hoc Committee agenda for the next meeting include not just a LAFCO Hanemann report discussion on the agenda, but also an agenda item for other categories for discussion, which would include the MSR. Attached to this letter as Exhibit "A" is a bullet-point summary addressing each of the 11 categories we listed above, and as Exhibit "B" we attach a list of our agency's draft comments to the MSR for consideration by the Ad Hoc Committee. We believe these exhibits will help facilitate discussion at the Committee meeting. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra L. Kerl". The signature is fluid and cursive, with the first name being the most prominent.

Sandra L. Kerl  
General Manager

Cc: LAFCO Executive Director Keene Simonds

Attachments

**EXHIBIT A**  
**SUMMARY OF NON-HANEMANN ISSUES AD HOC COMMITTEE NEEDS TO ADDRESS**

The following are short bullet-point summaries of what the Water Authority believes are important issues that the Ad Hoc Committee should consider beyond just the scope of matters in the Hanemann report, or in the MSR (the MSR is addressed in Exhibit “B”).

Issue 1: MWD Voting Rights – If Fallbrook and Rainbow detach and annex into Eastern, the MWD voting rights that go with their land’s assessed valuation moves from San Diego County to Riverside County. This is critical because MWD rate-setting has a major impact on San Diego ratepayers, and thus losing a say in those rates hurts San Diego County. Also, Eastern has been adversarial for many years to San Diego County ratepayers, and has regularly fought against rate refunds for our County, yet Eastern’s voting rights at MWD will be increased if there is an approved change. If detachment occurs there is no way to avoid the loss absent a change in law, because MWD voting rights are statutorily set. See our September 18, 2020, Response at pp. 68-72 for more detail.

Issue 2: Pressure on Bay-Delta – The Legislature has specified by law that local agencies should move off reliance on the fragile Bay-Delta ecosystem. Water Code Section 85021 states:

*“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.”*

If the requested reorganizations are approved, there will be increased reliance on the Bay-Delta, because more of MWD’s supply will be utilized, and as found by Dr. Hanemann this is not the same water, but a higher percentage of water from the Bay-Delta. This is explained in detail in our September 18, 2020, Response at pp. 95-100.

Issue 3: Elsinore Fault Earthquake Risks – Dr. Hanemann’s scope did not include analysis of earthquake issues. However, as we noted in our September 18, 2020, Response at pp.85-90 and 117-118, there is a major issue as to the Elsinore Fault not yet addressed at LAFCO. If moving into Eastern, Fallbrook and Rainbow will be 100% reliant on MWD for imported water, and can only receive imported water from the north. However, as Water Authority members they will be able to receive water from north and south, as they will have access to Water Authority storage and desalination in addition to MWD supplies from the north.

Issue 4: Regional Planning and Risk of Other Detachments – The regional planning between the Water Authority and SANDAG required by law (Water Code section 10915) is contravened by detachment. This is compounded by the risk that other agencies may also seek detachment. See Water Authority’s September 18, 2020, Response at pp.7-34 and 62-65.

Issue 5: CEQA – There has not yet been requisite CEQA compliance, as explained in detail in the Water Authority’s September 18, 2020, Response at pp. 174 *et seq.*

Issue 6: Infrastructure Issues – Rainbow cannot serve the southernmost portion of its service area from MWD’s pipes. Rainbow has made cryptic references to infrastructure that must be built, but has provided no detailed plans, costs, or timetable.

Issue 7: Credit Rating -- The Water Authority’s credit rating could be affected by detachment, increasing borrowing costs that would have to be paid by the remaining members. *See* Water Authority’s September 18, 2020, Response at pp.62-63.

Issue 8: Consolidation of Fallbrook and Rainbow – Just a few years ago LAFCO staff recommended that Fallbrook and Rainbow be consolidated, saving their ratepayers over \$2 million per year. Due to political pressure from Rainbow, the Commission decided not to consolidate. However, that option should be revisited to help financial conditions at the local agencies. *See* Water Authority’s September 18, 2020, Response at pp.40-47.

Issue 9: Voting in Entire Service Area -- The Water Authority Board has asked LAFCO to allow voting on the reorganizations in the entire Water Authority service area, not just in Fallbrook and Rainbow. Since virtually the entire County will be affected by the sought reorganizations, it is only fair that LAFCO allow such a vote. LAFCO has the authority to do so. *See* Water Authority’s September 18, 2020, Response at pp.169-170.

Issue 10: Factual Questions Specified by Water Authority – On pages 147-151 of its September 18, 2020, Response the Water Authority asked specific questions that LAFCO should require Fallbrook, Rainbow, and Eastern to answer. Most of them have been unasked, and unanswered.

Issue 11: Legal Issues – There are numerous legal issues related to these reorganizations in addition to just CEQA and the Bay-Delta issue. Though the Ad Hoc Committee is not a legal review panel, it should still be aware of them, such as: (a) what does the County Water Authority Act say about any “exit fee”? (b) what is LAFCO’s role?; (c) how would being run from Riverside County on water issues, but from San Diego County on others, actually work?; (d) what exact representation would Fallbrook and Rainbow have, or not have, on the Eastern Board, and how does that compare with the Water Authority?; and (e) if one side or the other is unhappy with the results at LAFCO and there is litigation, will LAFCO have to pay its own legal fees or is it reimbursed by the applicants?

**EXHIBIT B**  
**WATER AUTHORITY COMMENTS ON MSR**

The Water Authority here provides comments on the Fallbrook Region Municipal Services Review to the Ad Hoc Committee for discussion purposes. The Water Authority will submit its final formal MSR comments directly to LAFCO subsequent to the Ad Hoc Committee meeting on February 17, 2022.

**General Comments on MSR**

Page 19, Conclusion No. 2 - *Fallbrook region experienced a significant amount of consolidation in recent history, governance agencies reduced by one-half (from 8 to 4); “community interest appears limited...materially contributed to Commission choosing to reject last proposed consolidation in region involving FPUD takeover of RMWD in Sept 2015.”*

Comment: The Water Authority agrees with continued consolidation in the Fallbrook Region, and recommends consolidation, as was previously proposed, as a solution for financial distress instead of detachment.

Page 20, Conclusion No. 4 - *Growth is happening; 2/5 of private acreage undeveloped and critical housing pressure, combined w declining avocado production, shifting*

Comment: The Water Authority agrees with the above conclusion.

Page 20, Conclusion No. 7 - *FPUD and Rainbow MWD decline in liquidity; RMWD finishing with negative average total & operating margins over last 60 mos. Recent trends are noteworthy and merits the attention of the LAFCO Commission.*

Comment: The Water Authority agrees with the above conclusion.

Page 22, Recommendation No. 9 - *Opportunities for additional consolidations in the Fallbrook Region appear notionally plausible and, in some cases, presumable probable.*

Comment: Again, the Water Authority agrees with the above Report recommendation of consolidations within the Fallbrook Region.

**Technical Comments on MSR**

Page 15, Population estimates & projections – *“Report uses data generated by Esri’s own mapping analysis of census tracts; deviates from past reports that used SANDAG projections.”*

Comment: LAFCO should use SANDAG projections, not Esri; one of the Report’s findings is to develop buildout estimates specific to each affected agency in Fallbrook region in coordination with County of SD and SANDAG, so consistency is needed. The example listed on why Esri software was used to generate historic residential population (instead of SANDAG’s estimates) is a weak one. SANDAG can provide population estimates by Water Authority member agencies’ service areas – as they do for each UWMP update.

Page 26-27, FPUD facilities 1 (a) i-ix - Deliveries, demands, and gpcd numbers

Comment: On Table 4.1a it shows FPUD's estimated 2020 total resident population at 33,986, and on page 27 it states, "LAFCO estimates the population in the potable water service area at the end of the five-year report period at 23,360. This estimate represents 69% of the total estimated District population." Is 31% of FB's population not on its potable water system?

On page 27 it states, "Estimated per capita daily uses have decreased by (21%) over the five-year report period." However, this is based on a 2020 value that reflects wet-year (i.e. lower) potable demands (reported as 7,986 AF in Table 6.1b). FPUD's FY 2021 actual potable demand was ~8,900 AF, which would result in only about a 10% decrease in per capita use between 2016 and 2021 (using 2020 population for the 2021 GPCD calculation).

Page 29-30, Rainbow facilities 2 (a) i-ix - Deliveries, demands, and gpcd numbers

Comment: On Table 4.1a it shows Rainbow's estimated 2020 total resident population at 22,130, and on page 29 it states, "...population in the potable service area at the end of the five-year report period at 17,003. This estimate represents 77% of the total estimated District population." Is 23% of RB's population not on its potable water system?

Demand numbers are stated as "during the five-year report period." However, potable water demands (listed on page 120) are shown only for years 2016- 2019. On page 30 it states, "Estimated per capita daily uses have decreased by (29%) over the five-year report period from 1,030 gallons to 728 gallons."

However, this is based on a 2019 value that reflects wet-year (i.e. lower) potable demands (reported as 13,720 AF in Table 6.1b). Rainbow's FY 2021 actual potable demand was ~17,100 AF which would result in only about a 13% decrease in per capita use between 2016 and 2021 (using 2020 population for the 2021 GPCD calculation).

Page 38 - "(a) FPUD and Rainbow MWD maintain mutually beneficial interties with one another as well as with the City of Oceanside to receive and provide potable water in the event of emergency or planned interruptions to the San Diego Aqueduct"

Comment: Please provide maps/graphics showing the intertie locations for clarity on how emergency services are provided.

Page 55, FPUD Potable Water Service – this section's data reviewed against SDCWA 2020 Urban Water Management Plan (UWMP) data

Comment: The Report states: "*The estimated service population at the end of the period is 23,360.*" This value is more in-line with SANDAG's 2020 single-family (SF) household population for FPUD and not total population. 183 AF variance between Water Authority and FPUB average potable demand (2016 -2020) Table 6.1b.

Page 118, Rainbow Potable Water Service – this section's data reviewed against SDCWA 2020 UWMP data

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Comment: The Report's footnote on Page 118 states: "*The potable water service area population estimate by LAFCO utilizes the following formula: (number of single-family connections x 2.90) + (number of multifamily connections x 4 x 2.90).*" Does this mean Rainbow's estimated persons per household is 2.9 for single-family and 11.6 for multifamily? Comparison of Rainbow's average potable demand (2016 -2019) from Table 6.1b is a 59 AF variance from Water Authority number.