

From: Tom Kennedy <tkennedy@rainbowmwd.com>
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Jack Bebee (jackb@fpud.com) <jackb@fpud.com>
Sent: Friday, February 25, 2022, 01:35:17 PM PST
Subject: Request for list of items for further discussion at the Ad Hoc Committee

Adam,

This email is being sent on behalf of Jack Bebee and myself. While we believe it is LAFCO's role to determine pertinent questions as part of the detachment process and not SDCWA, we still want to provide some information regarding the questions posed by SDCWA to help you determine what items need additional discussion with the Ad Hoc Advisory Committee. We also feel that there is no need for additional meetings of the Ad Hoc Committee.

These are our replies using the SDCWA numbering system in its letter of February 8, 2022:

1. MWD voting rights are assigned based on property valuation by law (MWD Act), not anything specific to the member agency like purchase volume, financial contributions, etc. The rights are inexorably tied to the value of properties held by the owners of those properties within each of SDCWA's member agencies, not SDCWA. Specifically the MWD Act provides that each member is entitled to "cast one vote for each ten million dollars (\$10,000,000), or major fractional part thereof, of assessed valuation of property taxable for district purposes in the member public agency. . . ." The CWA Act clearly gives voters the ultimate power to make that choice, not SDCWA. We do not see a mechanism for LAFCO to modify the current language in the MWD Act.

Further, the detachment will reduce SDCWA's voting rights from approximately 17.37% to 17.15% - a reduction of approximately 0.22%. We are not aware of any decision made at MWD that either passed or failed by that margin. In addition, in the Hanemann report he cited the ongoing bad blood between MWD and SDCWA as being a problem for the region. If SDCWA thinks that there will be votes where they need this 0.22% to push something through there is a bigger problem.

2. The Bay-Delta issue has been asked and answered by MWD in a letter dated February 22, 2021. We refer you to that document for the definitive answer to this oft repeated, and superfluous question. In addition each party has previously responded to this item and also addressed the state reduced Bay-Delta reliance requirements in their 2020 UWMP.
3. Our applications included a response to a theoretical earthquake along the Elsinore fault. MWD has also weighed in on the matter in its various correspondence. We refer you to our applications and other documents but summarize those findings below:
 - a. There has never been a recorded earthquake that caused ground rupture along the Elsinore Fault and such a ground rupture would be necessary to damage the pipelines. The last significant earthquake was well over 100 years ago and while it is theoretically possible, it is not a significant risk.
 - b. Should such an earthquake occur, MWD has on hand at all times both the materials and self-owned manufacturing capabilities to complete a repair of the damaged pipelines within two weeks.
 - c. Both FPU and RMWD have supplies available to provide service to our customers during the emergency situation. Clearly, some emergency conservation restrictions will need to be implemented – similar to the restrictions imposed during SDCWA's frequent

pipeline shutdowns – so our customers are already accustomed to periodic short term emergency restrictions on water use. Outdoor irrigation dominates our Districts' water demands and when curtailed, our ability to meet the health and sanitation needs of our customers is the primary goal. This goal can be met during an emergency from local sources including:

i. FPUD's Santa Margarita Conjunctive Use Project supplies approximately 50% of the FPUD's water supply needs from a local source and could request additional deliveries during an aqueduct outage. FPUD also has a storage reservoir that holds up to 1200 Acre Feet of water. FPUD provided a detailed discussion on reliability during an earthquake in its 2020 UWMP.

ii. RMWD has large local water storage available with the largest single reservoir containing 450 Acre Feet of water. These supplies can serve the reduced demands for well over the projected hypothetical two week emergency period.

iii. FPUD and RMWD have an emergency supply agreement that gives RMWD access to FPUD's local supply through a series of existing interconnections between our distribution systems.

4. As has been made clear by our agencies and the closest SDCWA member agency, Valley Center MWD, there is no risk of other agencies detaching from SDCWA in order to take deliveries directly off MWD pipelines. The agencies would have to construct their own aqueducts to MWD's pipelines paralleling SDCWA aqueducts, which Valley Center MWD has determined to be financially infeasible. This repeated statement is simply fearmongering on the part of SDCWA.
5. Proper CEQA review of these matters was undertaken by both FPUD and RMWD during the deliberations by our boards in advance of the adoption of the Resolution of Application by both agencies. Both agencies were challenged in court by Otay Water District and the matter has been resolved. There are no further CEQA challenges applicable to this matter – it is settled.
6. RMWD's projects referenced by SDCWA as being related to its detachment proposal, are projects that were planned well before its detachment proposal, and will be constructed irrespective of the outcome of this process. The main reason is that SDCWA's infrastructure is unreliable, causing frequent planned and unplanned shutdowns. The most recent example of such a shutdown will happen next week– starting on March 1, 2022 – a shutdown due to a failure of a pipeline in the Bonsall area. In order to maintain water service Rainbow has to install expensive diesel powered temporary pump stations to serve the upper elevations of our southern service area. Planning has been underway to replace these with small electric powered pump stations since 2015. Construction will commence in 2022 irrespective of detachment. These pump stations replace existing facilities, have lower environmental risk than diesel powered stations and associated fuel tanks, and will be well under 1 acre constructed on previously disturbed lands. There are no CEQA issues with these projects and the Rainbow Board will document this through the normal methods. These same pump stations can be used to provide service from the MWD pipelines after detachment.
7. SDCWA just went to market for \$170M in debt and had its credit ratings updated—resulting in unchanged ratings. All of the ratings agencies are aware of the detachment process – one even mentioned it in its report. All maintained SDCWA's high credit rating – despite SDCWA's predictions otherwise.
8. The 2014-2015 consolidation effort is irrelevant to the current proceedings. That was presented to the Commission and rejected.

9. The CWA Act is very clear about where the voting will take place – in our service areas. Attempts to expand to the whole SDCWA service area are not based in law.
10. LAFCO can and should consider all information provided to it as part of the process. The Ad Hoc Advisory Committee was established at the suggestion of Supervisor Jacob in an attempt to have the parties resolve their differences, not become a surrogate for LAFCO staff analysis of information. Should any members of the Ad Hoc Advisory Committee wish to review SDCWA's submittals they are free to do so and provide comments directly to LAFCO staff.
11. We agree that some of the pertinent legal matters that were not dealt with in the Hanemann report should be brought forward for the Commission's review. Our general counsel have submitted detailed letters on this matter.

Again, while we do not think additional meetings of the Ad Hoc Committee are necessary to provide additional information to LAFCO staff, should additional meetings be scheduled we would like LAFCO to consider the following questions for discussion at the next Ad-Hoc Advisory Committee meeting:

- a. What has been the outcome from the previous detachment from SDCWA (Coronado) and what were the regional impacts associated with that detachment? Has regional planning efforts been hampered by the fact that Coronado is not part of SDCWA along with about 2/3rds of San Diego County?
- b. Since the Hanemann report concluded that the financial impact of the local supply projects under development are similar to the impacts of the detachment proposals, what is the financial impact of these projects on FPUD and RMWD ratepayers if the detachment does not proceed?
- c. What are the remaining steps in the process for LAFCO staff to deem the applications complete and issue a Certificate of Filing? We have requested information on the status of our applications in the past, and respectfully request a discussion on at the meeting on the items LAFCO considers outstanding.



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