



May 18, 2022

Michael Patrick George
Delta Watermaster
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
Email: michael.george@waterboards.ca.gov

Re: Email on May 6, 2022 on Reduced Reliance on the Delta

Mr. George,

This letter pertains to your May 6, 2022 email to Keene Simmonds at LAFCO in which you shared your opinion relative to the detachment of two local water districts (Fallbrook Public Utility District (Fallbrook) and Rainbow Municipal Water District (Rainbow) from the San Diego County Water Authority (SDCWA). Your May 6, 2022 email also included your previous email to Sandy Kerl, dated September 17, 2020, on the same topic. Based on our review of records we previously received from your office in late September 2020—we understand your involvement in this matter was not due to any of your duties as the Delta Watermaster, but rather it was due to a request of Chris Frahm, an attorney at Brownstein, Hyatt, Farber, Schrek, LLP. As you may be aware, Ms. Frahm is retained by SDCWA to support on-going Metropolitan Water District (MWD) litigation.

Our understanding—that your September 17, 2020 email correspondence and your May 6, 2022 correspondence was not sent as part of your responsibilities as the Delta Watermaster—is confirmed by your statement in your May 6, 2022 email that “enforcement of the Delta Plan is not within my authority or responsibility as the Delta Watermaster.” We appreciate you making this clarification, which further expands on your statement in your September 17, 2020 email, that your “jurisdiction as Delta Watermaster is limited to the Delta” and that the “proposed de-annexation is not a covered action occurring inside the Delta.” While we find it a bit unusual for a state official to formally weigh in on a topic over which they have no authority, we want to make sure that if you plan to make any assessment that you do so only after having reviewed all the pertinent documents.

In your opinions on this topic you state that:

approving the pending proposals would be an unfortunate instance of backsliding from supply diversity/security and at the margin, would increase, rather than reduce, reliance on the Delta in Fallbrook and Rainbow's de annexed supply mix.

It appears you may have missed Fallbrook's December 17, 2020 submission ("Submission") to the Delta Stewardship Council, as the entity with jurisdiction on this topic, on which you were copied, which demonstrates our compliance with Water Code 85021 and The Delta Plan's regulatory policy WR P1 ("WR P1" or "Reduced Reliance Goal"). Based on your May 6, 2022 email correspondence it is unclear whether you reviewed and considered the information in our Submission prior to issuing your May 6, 2022 opinion. For your reference, the Submission is available at:

<https://www.sdlafco.org/home/showpublisheddocument/5438/637439007560570000>

The Submission included an analysis of compliance with the WR P1 was completed by Ken Weinberg, who was appointed in 2016 by Governor Brown to serve as a member of the Delta Stewardship Council and is very familiar with the specific requirements of the Delta Plan and WR P1. The conclusion reached in this analysis was:

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.

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 at a minimum of 50% in the amount of acre feet used.

The Reduce Reliance Goal allow agencies to choose the best approach for achieving compliance with WR P1, including not only by relying, for example, on temporary water supply agreements for Colorado River water supplies (referred to as "E water" in your letter), but also by relying, for example, on local supplies and conservation. The approach laid out in your opinions seems to indicate a different interpretation of how The Delta Plan and in particular WR P1, is supposed to be implemented—an interpretation which clearly diverges from the DWR methodology. Your position, as applied to various scenarios, would lead to much more prescriptive results in so much as your opinion is that:

- A violation of WR P1 would result if an agency, that is part of a temporary supply project outside the Delta, didn't continue that project in perpetuity.
- A violation of WR P1 would result if an agency, as part of a long term plan, had a short term need for increased Delta supplies.

- A violation of WR P1 would result if any agency would need to rely on Delta supplies to augment local supplies in order to serve a new development.

If, for example, one was to apply your interpretation to the QSA water supply agreement between SDCWA and the Imperial Irrigation District (IID), it would have the State prescribe some very specific agreement requirements for allocation of part of the State's Colorado River supply rights. For your information, the SDCWA/IID agreement has a price reset provision in 2035 where should both parties not reach agreement on a price for the water, the agreement for the additional transfer water would end. Based on both your 2020 and 2022 email correspondence it would seem SDCWA would be required to agree to any price term in order to prevent violating your interpretation of the State's policy. Under this interpretation, SDCWA could also not agree to transfer any of this water to any other party in the State – even MWD or another MWD member agency - as it would impact its (SDCWA's) individual Bay Delta demand. Moreover, under your interpretation, SDCWA would also apparently be required to find 200,000 AFY of new supply by the time the agreement for the transfer water terminated in 2047.

In addition, both SDCWA and Eastern MWD are member agencies of MWD and the requirements of the Delta Plan apply to MWD as a whole, as well as its member agencies and their subagencies. MWD is in full compliance with The Delta Plan as it has diversified its portfolio, engaged in massive conservation efforts, and is now preparing to construct the largest water recycling and reuse project in the state. Whether Fallbrook and Rainbow get invoices for their wholesale water purchases from SDCWA or EMWD will not make any difference in the compliance of Southern California as a whole. The change in our wholesale supplier will also not increase the availability of Delta supplies to MWD, they will receive the exact same allocation and the exact same water deliveries from the Delta.

Your opinion that both Fallbrook and Rainbow are “backsliding from supply diversity/security” also does not take into account local supply development and conservation efforts. Fallbrook recently completed a \$60+ million dollar project to develop new local groundwater supplies. We have invested in recycled water since the 1980s and continue to expand our recycled system to replace potable water demands. We are currently conducting an Indirect Potable Reuse project with Camp Pendleton to look at further expanding our local supplies. We have also cut our water demand from over 20,000 AFY to around 8,000 AFY.

Rainbow also has ongoing efforts both to recycled wastewater and develop groundwater supplies in their service area, with those efforts projected to begin production later in this decade. Rainbow's demands on the Delta have dropped by roughly 60% since 2004. Ken Weinberg produced an analysis of Rainbow's individual compliance with WR P1 (similar to Fallbrook's Submission), which analysis demonstrated full compliance with The Delta Plan. A copy of this analysis can be found at:

<https://www.sdlafco.org/home/showpublisheddocument/6004/637723011625670000>

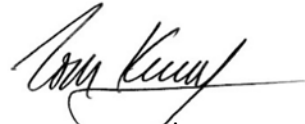
In conclusion, we support the Governor's priorities for a diversified water portfolio including new

supplies, conservation, Colorado River supplies and investments to build a robust Bay-Delta water system. We do not believe that the future for water supply security in Southern California and for Fallbrook and Rainbow should be focused on a solution that replaces Bay Delta water demands with a temporary agreement for Colorado River water. This is a short-sighted strategy that will ultimately lead to more pressure being put on the Delta as demands on the Colorado River continue to outstrip supplies--and this situation is projected to only get worse. Our governing Boards have separately determined that we will be better suited to continue forward with a long-term water supply strategy that includes new local supplies, recycled water expansion and conservation with EMWD as our wholesale supplier. We believe the State Bay Delta policy requirements allow Fallbrook and Rainbow to make these decisions at a local level and that they are not decisions in the purview of the Bay Delta Watermaster. Fallbrook and Rainbow have been pursuing a strategy using both conservation and water local supply development to reduce demands on imported water including both the Colorado River and State Water Project, which is clearly aligned with the Bay Delta Policy objectives. We want to highlight that we have copied a number of State officials that do have jurisdiction over the Bay Delta Policy principles on this letter so they can advise if they do not agree with our compliance reports, which demonstrate the Districts are clearly in compliance with both Water Code Section 85021 and the Delta Plan's regulatory policy WR P1.

Sincerely,



Jack Bebee
General Manager
Fallbrook Public Utility District



Tom Kennedy
General Manager
Rainbow Municipal Water District

Cc: Wade Crowfoot, Secretary Natural Resources
Joaquin Esquivel, Chair State Water Resources Control Board
Jessica Pearson, Executive Officer, Delta Stewardship Council
Keene Simonds, Executive Officer, San Diego LAFCO