



May 18, 2023

Keene Simonds
Executive Officer
San Diego Local Agency Formation Commission
2550 Fifth Avenue
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San Diego, CA 92103

VIA EMAIL TO: keene.simonds@sdcounty.ca.gov

Subject: AB 530 and Option Three in Staff Report

Dear Keene:

As I am sure you are aware, on May 15th a bill that began as a climate change related bill in the State Assembly (AB 530) was amended. This amendment gutted all the climate change provisions and replaced them with an amendment to the County Water Authority Act. This amendment is targeted specifically at the two applications from Rainbow MWD and Fallbrook PUD to detach from the San Diego County Water Authority (SDCWA). The amendment revises the manner in which an election of the voters in the detaching agencies would be conducted, changing it from just within those agencies boundaries to be within the entire service area of the Water Authority.

Since the legislator in question was from San Diego County and since there is only one County Water Authority in existence to our knowledge, it seemed clear to me that this was an attempt by SDCWA to bypass the determinations that SDLAFCO and its counsel have made in the staff report that will be considered on June 5th by the Commission. In this report, SDLAFCO staff and counsel have correctly applied the plain language of the County Water Authority Act and have established that should the Commission approve the application(s), the required election by the voters would occur only within the territory of the detaching agencies.

We were taken aback by this effort as an affront to the processes ongoing at LAFCO. When a party to an action at LAFCO runs to the legislature for help when LAFCO makes determinations they may not like, they corrode the authority of LAFCOs statewide, which is a hindrance to LAFCOs performing their important function in local government. Jack Bebee (GM at FPUD) and I could only speculate as to whether SDCWA was involved in this effort, despite there being no motive for anyone else to initiate this legislative change.

On May 17th, Jack and I met with SDCWA Chair Katz and Vice Chair Serrano in San Diego City Hall to discuss detachment. The new Chair wanted to see if some sort of compromise could be reached. While we appreciate that they were finally willing to have open discussions and we will remain open to a resolution of this matter that protects our agricultural communities from the high cost of water within SDCWA, at this time we do not have a clear path forward to reach a better solution than detachment.

However, when the topic of this revision to AB 530 came up, Chair Katz and Vice Chair Serrano identified that they personally had reached out to Assembly Member Boerner and asked her to make this change.

It seems that after nearly four years of trying to get LAFCO to violate State Law by requiring a countywide vote did not go their way, SDCWA has decided to circumvent the powers given to SDLAFCO in this "gut and amend" of a climate change bill.

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While we are confident that this ill-conceived bill amendment will not pass, it does pose a significant challenge for Option Three in the staff report. This option would delay, after more than three years of processing of the applications by SDLAFCO, the final approval of the detachments until after a Municipal Service Review (MSR) is completed on SDCWA. This process could take up to two years. Though unlikely, should this bill be signed into law, that would cause great harm to the ratepayers of the two agencies due to the cost of the election and the challenge any countywide vote has to obtain approval.

This subversion of the LAFCO process has now rendered Option Three untenable as it is clear that SDCWA wishes to disregard the will of the Commission and would continue to work on legislative work arounds during the MSR process. I would like to request that Option Three be omitted from the final staff report and the Commission be informed as to the circumstances that lead to this change.

As a reminder, SDCWA has long stated that the financial impact of detachment is different from that of roll off (like the City of San Diego Pure Water project) because they have time to plan as these projects take up to a decade to create the impact. FPUD and RMWD notified SDCWA of our intention to detach on May 21, 2019 – four years ago next week. With the exit fee contained in Option Two mitigating any cost impacts for an additional five years, SDCWA will have had nine full years to mitigate what amounts to a less than 2% revenue impact. If SDCWA cannot manage an adjustment to this sort of situation the problem is not detachment, it is SDCWA.

If you have any questions please feel free to contact me

Sincerely,

RAINBOW MUNICIPAL WATER DISTRICT



Tom Kennedy
General Manager

cc: Alfred Smith, RMWD General Counsel
Jack Bebee, GM FPUD
LAFCO Commissioners
SDCWA Board Members