



*...Dedicated to Community Service*

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May 22, 2023

San Diego County  
Local Agency Formation Commission  
2550 Fifth Avenue, Suite 725  
San Diego, CA 92103

To: Keene Simonds, Executive Officer  
Jim Desmond, Chair

RE: Proposed Fallbrook PUD and Rainbow MWD Reorganizations: Wholesale Water Services

Honorable Chair Desmond and Commissioners,

The Otay Water District ("District") is writing on behalf of our customers who will be directly impacted based on your decision regarding the detachment of Fallbrook Public Utilities District (Fallbrook) and the Rainbow Municipal Water District (Rainbow) from the San Diego County Water Authority (CWA) and the precedent it will set. The District has the privilege of serving a large, diverse, and growing population of 227,957 people, representing various communities including but not limited to: Otay Mesa, Chula Vista, Spring Valley, Rancho San Diego, and Jamul. These areas include disadvantaged communities as well as tribal nations.

This letter's purpose is to provide input on the report which outlines the current thoughts and recommendations by LAFCO staff on the detachment application. On behalf of the District, we want to sincerely thank LAFCO staff for all the work that has gone into the evaluation. We recognize and appreciate the efforts of the Ad Hoc Advisory Committee and the experts involved. The District understands this is an extremely complex and difficult subject that has significant impacts on not just Rainbow and Fallbrook, but on every District rate payer as well as every rate payer in the County. After review of the recently published report, the District has identified some items of concern that we feel are of significant importance which should be considered when making your decision.

Many of our customers face the challenges of poverty and we have a responsibility to ensure that they can afford to purchase water. We urge you to pay attention to some key points that are vital to our customers' well-being. We appreciate your efforts to be fair and compassionate as you make decisions that affect our community.

## Financial

- Fundamentally LAFCO's own assessment and experts within this report confirm approval of detachment would increase the costs for over 3 million customers remaining throughout San Diego County while only benefiting the two applicants.
- Consider all Obligations - In addition to their portion of the CWA's Bond debt obligation and the Desalination (Desal) obligation, Dr. Hanemann's Report (Pgs. 13 and 14), suggests a "starting point" for an annual exit fee covering only the QSA agreement of \$18.5M. Rainbow and Fallbrook need to retain the cost of the high reliability water they want to leave behind, not just as it relates to QSA, but also the Bond indebtedness they leave behind, and the cost of reliability related to the Desal water. These three obligations should all remain the responsibility of both Rainbow and Fallbrook until the contracts are completed and can be renegotiated.
- Responsibility for Actions - Detachment would allow Rainbow and Fallbrook to avoid what is their responsibility while offloading their cost. Per Dr. Hanemann's Report (Pgs. 15 and 75), Fallbrook and Rainbow benefitted from the superior reliability of CWA's supply.
- Financial Hardship - A fair result for each of our constituents, especially those who face financial hardship with the current high price of water, requires that if detachment is permitted, that the true financial cost stays with Rainbow and Fallbrook. Anything that can be done to prevent unjustly placing an additional financial burden on our customers should be done.
- Exit Fee Timeline - From a financial perspective, the term of an annual exit fee should match the term of the costs that were incurred on behalf of the exiting parties. Rainbow and Fallbrook point to various fees at CWA that have a 5 to 10 year roll off period to justify a short-term exit fee. CWA is in the process of updating and balancing both costs and revenues in a new environment where water sales stability is being reduced. The effort by CWA points to the need for a much longer exit fee than 5 to 10 years.
- Exit Fee Timeline - While the current proposed timeline of 5 years appears reasonable since it corresponds to the frequency of which Urban Water Management Plans (UWMPs) are updated, it is important to note that UWMPs are 20-year planning documents and are only updated every five years. In response to the question regarding the exit fee duration, Dr. Hanemann stated: "*In the water industry, a period of 10 years would typically count as the short run for planning purposes.*" (Pg. 82). Therefore, a 10 year exit fee with a 5 year analysis and update would be more appropriate based on the recommended logic by both Dr. Hanemann and this LAFCO report, should detachment be considered.

- ESP North County Pump Station Credit - The rationale behind granting ESP credit to Rainbow and Fallbrook for the North County Pump Station is flawed. The Capital Improvement Program (CIP) of CWA experiences regular changes. It is incorrect to assume that funds no longer required for one project automatically result in a surplus of funds. When a project is removed from the CIP, the funds allocated for that specific project are essentially credited back to each agency. At the same time, these funds are repaid to CWA for new projects. While these simultaneous transactions are clearly unnecessary and burdensome, they have already taken place. The funds have already been returned and cannot be returned again. Even if LAFCO disregards the actual process behind this, the idea of funds, which originate from all member agencies, being returned solely to Rainbow and Fallbrook is not justified.
- Bond Obligations - Rainbow and Fallbrook need to retain the responsibility for their full share of the CWA debt. Based on long range planning including UWMPs, CWA invested and executed major water supply infrastructure projects just before and after 2010, which is the financial obligation of all member agencies including Fallbrook and Rainbow. Per Dr. Hanemann's Report (Pg. 12), CWA's bonded and other indebtedness totals approximately \$21 billion, with Rainbow and Fallbrook's share amounting to approximately \$1 billion.
- Dr. Hanemann's Report identifies that detachment is certainly different than demand roll-off (Pg. 103). There is no ability to assess charges to an already detached agency. This points to how highly sensitive it is to assess all costs in the exit fee. There is no way to go back and assess a fee once the detachment is complete. This process requires precision in the decision on assessing financial impacts.

## Environmental

- Bay Delta - Per Dr. Hanemann's Report (Pg. 78), environmental regulations over the last three decades have aimed to protect native species of fish in the Delta. As pointed out in the staff report (Pg. 36), the *detachment will increase reliance on the Sacramento Bay-Delta*. While some have argued the impacts are small, it still acknowledges that allowing detachment will adversely affect an already stressed resource which is depended on by all southern California.

## Governance

- Representation - While Fallbrook and Rainbow may see cost savings, there is no justification to offer our customers for raising what they pay for water, an already high burden throughout the region, other than they are subsidizing the savings of others and that this is being done without a direct say on the matter.

Jim Desmond

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- Regional Planning - Detachment would create a precedent of letting some parties create expensive reliability and then escape the cost. This practice of price shopping and avoiding the cost of being responsible discourages and disincentivizes wholesalers from making the tough but necessary decisions that are needed. Per the MWD Chair Ortega letter to LAFCO dated March 22, 2023: *“Given Metropolitan’s recently started Climate Adaptation Master Planning process the issue of detachments and boundary changes, a precedent by San Diego LAFCO could undermine the financial viability of future regional water supply adaptation measures in a race to the bottom for cheaper water rates.”*
- Voting Rights - Detachment undermines the representation of San Diego and our ability to pursue equity for our residents at MWD. In combination, they constitute the second largest voting bloc in San Diego County Water Authority. Once again, allowing detachment would adversely impact the representation of the ratepayers throughout San Diego County at MWD without allowing them to have a vote on the matter.
- Instability - CWA has been providing reliable water services to the region for years, and an exit by member agencies leads to added uncertainties and potential issues in ensuring a stable water supply for the region. The Commissioners should recognize that this opens the door for other agencies to exit CWA in the name of seeking cheaper and less reliable water. Allowing detachment in this specific matter would destabilize CWA and orderly government planning and structure throughout our region.

The District appreciates the applicants’ desire to achieve cost savings for their customers and would not object if those savings were achieved through: an increase in efficiencies, with no environmental impacts, and a more orderly governmental structure, consistent with the fundamental objectives we trust LAFCO will continue to uphold. However, this report, including LAFCO’s own expert, Dr. Hanemann, confirm that approval of detachment, as outlined in the options listed, would result in: a cost transfer, environmental impacts, and less orderly government throughout the region. Therefore, the District recommends that the LAFCO Board of Commissioners proceed with Option 4 - to Disapprove without Prejudice so that we can continue to address our regional challenges with regional solutions.

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Thank you for your time in reviewing this letter. Please look at these issues and weigh them carefully. The District understands this matter is time consuming, impacts several parties, and it is a significant undertaking to assess all the factors. We appreciate your professionalism, your time, and your engagement with this challenging evaluation and all the efforts to find a resolution to this matter that is in the best interests of the public we all serve.

Sincerely,

OTAY WATER DISTRICT

A handwritten signature in blue ink, appearing to read 'J. Martinez', with a long horizontal flourish extending to the right.

Jose Martinez  
General Manager