



May 22, 2023

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

Subject: Comments on Draft Staff Report on Rainbow MWD Reorganization

Dear Priscilla:

First off I want to commend you and the LAFCO staff for your work in processing the application by Rainbow MWD for a detachment from the San Diego County Water Authority (SDCWA) and concurrent annexation into the Eastern Municipal Water District (EMWD). I know this process has gone on longer than any of us would have preferred, but LAFCO has now received input from any and all interested parties and we look forward to bringing the matter to the Commission. I offer the following comments for your consideration as you prepare the final staff report:

- As you will see in separate communication by Rainbow MWD's Assistant General Counsel Bill Pellman, we continue to disagree with LAFCO on whether LAFCO has the authority to impose an "exit fee" on Rainbow MWD as part of this process.
- Rainbow MWD has contributed hundreds of millions of dollars over the years to construct assets south of us that serve other member agencies but have never provided any direct benefit to Rainbow MWD. Should LAFCO feel that it has the authority to impose an exit fee, some sort of credit should be applied for these assets that we will leave behind.
- In numerous communications to LAFCO, SDCWA has consistently indicated that there will be ZERO Operations and Maintenance (O&M) savings related to detachment. This salient point should be emphasized in the report. While it is hard to imagine this the case, if SDCWA is correct, Rainbow MWD is grossly overpaying for services it does not receive. This fact alone is a basis for the approval of detachment.
- In addition to assets such as pipelines and other physical infrastructure, Rainbow MWD leaves behind millions of dollars in stored water that we paid for as a member agency that will benefit the remaining member agencies directly. Rainbow MWD also contributed just under 4% of all SDCWA cash reserves which will be left behind. Both are tangible direct benefits to the remaining member agencies that should be included in a credit against the exit fee proposed by LAFCO.
- In the report Dr. Hanemann (with LAFCO staff concurrence) concludes that SDCWA's leased Colorado River water supplies offer a higher level of reliability than the diversified supplies from the Metropolitan Water District (MWD). As we have all seen over the last year, the Colorado River supply is hardly a secure future source of water and is likely to be cut significantly in the upcoming years. SDCWA's supply portfolio is heavily dependent on a single source of supply, whereas MWD's portfolio has multiple sources of supply. The fact is that MWD's preparation for water shortages prevented any sort of curtailments in the Skinner service area (where SDCWA and EMWD take service from MWD) even after the three driest years ever recorded.

- On Page 17 the report discusses the need for Wheeling Agreements for Rainbow's southerly connections. I want to clarify again that while such agreements would make good sense for both Rainbow and SDCWA, they are not a prerequisite for detachment. Irrespective of the detachment decision, Rainbow is in the process of moving all of our water purchases to our MWD connections as SDCWA's exorbitant transportation fee makes this a cost effective option for us. As noted in our original application from 2020 and in correspondence since then, Rainbow MWD has not yet completed construction of the limited facilities required to make this transition and will need to consult with LAFCO on the exact timing of the detachment should it be approved by the Commission and subsequently by the voters in our service area.
- The report correctly notes that Rainbow and the City of Oceanside have long planned to maximize the efficiency of the Weese treatment plant by delivering excess capacity to Rainbow. Were it not for stonewalling from SDCWA, this project, which has agreements and completed construction drawings in place, would have already been constructed. Should the detachment be approved, a wheeling agreement would be required to move raw water a few miles into SDCWA's system to the Weese plant.
- I read with some interest the lengthy letter from Helix Water District, the second largest member agency at SDCWA, where they make statements that claim that Rainbow must pay for some of SDCWA's debts. As the letter from Bill Pellman will detail, each and every time SDCWA approves debt, the Board of Directors at SDCWA adopts a resolution that clearly states that no member agency has any obligation to pay any specific amount of the debt, nor do they have any obligation to purchase any set amount of water. While Helix may have its own opinions here, the SDCWA board is clear on this topic: we do not owe anything for their outstanding debt.
- The report correctly identifies the financial impact of the development of new local supply (also called "roll off") as being far greater than the impact of detachment. The flawed governance model in place at SDCWA will ensure that these "roll off" agencies (including the City of San Diego, Helix, and others) will have the voting power to block any attempt to equitably redistribute costs into true fixed charges. This will leave non-roll off agencies, such as Rainbow MWD, Valley Center MWD, and others to foot the bill, leading to devastating rate impacts for the customers of these agencies and our agricultural communities.
- While the report does correctly identify the preservation of agriculture as a requirement under State law and local LAFCO policies, the imposition of an exit fee as a condition of detachment will add to the decades of harm the agricultural community has suffered in our area. LAFCO policies require that special consideration be given for the preservation of agricultural lands. LAFCO should follow this guidance and recommend approval without an exit fee.
- LAFCO staff has included an option to pause the detachment proceedings in order to perform a Municipal Service Review (MSR) on SDCWA. There are numerous issues with this option (Option Three):
 - o With an administrative record that is now well over 12,000 pages long in which every aspect and impact of detachment on SDCWA has been scrutinized in minute detail, the delay to perform an MSR is unlikely to produce any additional information that could help guide the Commission on this decision.
 - o As my letter to Executive Officer Simonds from last week detailed, the City of San Diego is now pursuing legislation to change the rules related to detachment. While this unfair gambit is unlikely to succeed, it highlights the need for the Commission to come to a decision now, not a few years from now.

- Should Option Three remain, we request that the five year exit fee period commence at the time of the decision by the Commission. We request that language be added to Option Three that both starts the exit fee period and stipulates that should the Commission approve detachment after the MSR is completed, Rainbow MWD's exit fee should be credited for the net revenues received by SDCWA during this period. The rationale for this is based on communications from SDCWA that detachment is different from roll off because SDCWA has time to plan for roll off and detachment is somehow abrupt. This process has been anything but abrupt, given that SDCWA was notified of our intent to initiate detachment proceedings on May 21, 2019. Four full years of preparation time have already elapsed, and with an election process required after Commission approval it is likely that SDCWA will have had five year's notice even before the five-year exit fee period. Adding the MSR option would add even more years – beyond even Dr. Hanemann's 3-10 year adjustment period. As I indicated in my letter from last week, if SDCWA can't adjust to a very small (<2%) reduction in their net revenues in this amount of time, the problem is not detachment, it is SDCWA.
- I think it is important to keep the impact of detachment in perspective with the overall financial situation at SDCWA. SDCWA is now considering a budget of ~\$900M per year. LAFCO's calculation of a loss of net revenue of ~\$12.8M amounts to 1.42% of this total budget. SDCWA is also in the process of raising rates by up to 14% starting next year. This proposed single year rate increase is MORE THAN SEVEN TIMES the impact of detachment.

In conclusion, the decades of cost increases from SDCWA, mainly to pay for assets and services we don't receive, has had a devastating impact on our community. The loss of agricultural lands has been well documented and LAFCO has an opportunity to slow this loss by allowing the ratepayers of Rainbow MWD to exercise the rights given to them under State Law and choose their wholesale supplier.

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