

RESOLUTION NO. _____

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

MAKING DETERMINATIONS, APPROVING, AND ORDERING A REORGANIZATION

**“FALLBROOK PUBLIC UTILITY DISTRICT REORGANIZATION: WHOLESALE WATER SERVICES”
CONCURRENT ANNEXATION TO EASTERN MUNICIPAL WATER DISTRICT AND DETACHMENT
FROM SAN DIEGO COUNTY WATER AUTHORITY WITH RELATED ACTIONS
LAFCO FILE NO. RO20-05**

WHEREAS, on March 18, 2020 and March 19, 2020, the Rainbow Municipal Water District (MWD) and Fallbrook Public Utility District (PUD), respectively, filed a resolution of application to initiate proceedings with the San Diego County Local Agency Formation Commission, hereinafter referred to as “Commission,” pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, on April 28, 202 the Executive Officer administratively combined the proposals for hearing purposes (Combined Proposals); and

WHEREAS, each application seeks approval to reorganize and transfer wholesale water service responsibilities within each applicant’s jurisdictional boundaries – totaling approximately 79,050 acres – from the San Diego County Water Authority (CWA) to Eastern Municipal Water District (MWD); and

WHEREAS, of that total acreage, the jurisdictional boundaries of Fallbrook total approximately 28,193 acres; and

WHEREAS, the Combined Proposals necessitate concurrent annexations to Eastern MWD and detachments from San Diego CWA with conforming sphere of influence amendments to accommodate the jurisdictional changes; and

WHEREAS, on October 24, 2019, pursuant to Government Code Section 56124, San Diego LAFCO entered into a memorandum of understanding (MOU) with Riverside LAFCO. The MOU delegates to San Diego LAFCO the responsibility to process the Combined Proposals and prepare related analyses – including, but not limited to – a municipal service review on Eastern MWD to inform a conforming sphere of influence action; and

WHEREAS, on April 2, 2020, pursuant to Government Code Section 56127, CWA applied for “non-district” status for purposes of Part 4 (conducting authority proceedings) of CKH as it relates to the Combined Proposals; and

WHEREAS, on May 4, 2020, pursuant to Government Code Section 56128, San Diego LAFCO determined CWA is not a district or special district for purposes of Part 4 (conducting

authority proceedings) of CKH as it relates to the Combined Proposals, resulting in protest and election proceedings taking place under CWA's principal act should the Commission approve Fallbrook PUD and/or Rainbow MWD's reorganization proposals; and

WHEREAS, on June 1, 2020, San Diego LAFCO approved the establishment of an advisory committee to directly assist the Executive Officer in the administrative review of the Combined Proposals; and

WHEREAS, on February 7 & March 7, 2022, San Diego LAFCO received and approved a final report on a scheduled municipal service review on the Fallbrook region and the local agencies operating therein subject to the Commission's oversight – including Fallbrook PUD and Rainbow MWD; and

WHEREAS, an applicable master property tax transfer agreement, dated December 2, 1982, applies to the Combined Proposals; and

WHEREAS, the Commission's Executive Officer has reviewed the proposed reorganization and prepared a report with recommendations; and

WHEREAS, the Executive Officer's report and recommendations on the proposal have been presented to the Commission in the manner provided by law; and

WHEREAS, staff published an advertisement notice of public hearing regarding this proposal in the San Diego Tribune and Village News on April 24th and May 4th, respectively; and

WHEREAS, the Commission heard and fully considered all the evidence presented at a noticed public meeting on the proposal on June 5, 2023; and

WHEREAS, the Commission considered all the factors required by law under Government Code Sections 56425, subdivision (a), and 56668 and adopted local policies and procedures.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The Recitals above are incorporated herein by reference.
2. At the hearing, the Commission called for, heard, and considered all public comments by interested parties and read and considered the Executive Officer's report.
3. The Commission serves as responsible and lead agency under the California Environmental Quality Act (CEQA) in considering the two distinct "projects" associated with the proposed reorganization and as detailed in the Executive Officer's report: (a) reorganization and (b) the related conforming sphere of influence action. The Commission's findings follow.

- a) Fallbrook PUD's and Rainbow MWD's initiating actions involving the reorganization proposals position these agencies to serve as lead agencies in assessing the potential impacts - and specifically the annexation to Eastern MWD and detachment from County Water Authority - under CEQA. In their roles as lead agency, both Fallbrook PUD and Rainbow MWD have made findings that the proposal qualifies as a project but is exempt from further review under State CEQA Guidelines Section 15320. Staff independently concurs this exemption appropriately applies given the underlying action involves the transfer of existing municipal service functions within the same area with no additional powers or expansions therein.
 - b) San Diego County LAFCO serves as lead agency under CEQA for the conforming sphere of influence actions associated with accommodating the reorganizations. It is recommended the Commission find these actions – and specifically establishing a sphere for Eastern MWD covering its wholesale function to include the affected territory and concurrently removing these lands from the County Water Authority sphere – collectively qualify as a project under CEQA but exempt from further review under State Guidelines 15061(b)(3). This exemption appropriately applies given it can be seen with certainty that spheres are planning policies and any associated actions (establishment, update, or amendment) in and of itself does not change the environment or authorize any new uses or services.
4. The Commission APPROVES an amendment to Eastern MWD's sphere of influence to include the affected territory and concurrently remove these lands from the County Water Authority sphere as further shown and described subject to all conditions below and in doing so makes the statements provided as Exhibit "A."
 5. The Commission APPROVES the reorganization without modifications and subject to conditions as provided. Approval involves all of the follow
 - a) Annexation of the affected territory to the Eastern MWD as shown in "Exhibit B-1" and described in "Exhibit B-2."
 - b) Detachment of the affected territory from the San Diego CWA as shown in "Exhibit B-1" and described in "Exhibit B-2."
 6. The Commission CONDITIONS all approvals on the following terms being satisfied by June 5, 2024 unless an extension is requested in writing and approved by the Executive Officer:
 - a) Completion of the 30-day reconsideration period provided under Government Code Section 56895.

- b) Submittal to the Commission of final map and geographic description of the affected territory as approved by the Commission conforming to the requirements of the State Board of Equalization – Tax Services Division.
 - c) Submittal to the Commission of the following payments:
 - A check made payable to LAFCO in the amount of \$100.00 for the County of San Diego-Clerk Recorder to reimburse for filing a CEQA Notices of Determination for the Sphere of Influence update and the reorganization consistent with the findings in the resolution.
 - A check made payable to the State Board of Equalization for processing fees in the amount of \$3,500.00.
 - A check made payable to San Diego LAFCO in the amount of \$719.98 to reimburse one-half of the cost of the public hearing notice published in the San Diego Union Tribune.
 - A check made payable to San Diego LAFCO in the amount of \$200 to reimburse one-half of the cost of the public hearing notice published in the Village News.
 - d) Within 30 days of the adoption of this Resolution, the execution of an obligation to indemnify and hold harmless, to the fullest extent permitted by law, the Commission, including its officers, agents, employees and volunteers, from and against any and all claims, losses, costs and expenses for any damage or injury arising out of or in connection with the Combined Proposals, and, upon the Commission's request, the deposit of funds for the defense of the Commission. Such costs and expenses shall include reasonable attorneys' fees due to counsel of Commission's choice, expert fees and all other expenses of litigation.
 - e) Pursuant to Government Code Section 56886, subdivision (v), the Commission imposes an exit fee of \$8,506,750.00 to be paid to CWA in five annual installments of \$1,701,350.00. The first payment shall be made to CWA within 30 days of the certification of the election results described below, if a majority of the electorate votes in support of Fallbrook's proposal..
7. The four remaining annual installments of \$1,701,350.00 for the exit fee described in 6.e above shall each be paid to CWA on the successive yearly anniversaries of the initial payment until completed.
 8. The Commission assigns the proposal the following short-term designation:
"Fallbrook PUD Reorganization"
 9. The affected territory as designated by the Commission is inhabited as defined in Government Code Section 56046.

10. The Commission delegates to the Executive Officer the performance of all conducting authority proceeding requirements under Government Code Section 57000 for purposes of the Eastern MWD annexation.
11. Pursuant to Water Code Appendix Section 45-11, subdivision (a)(2), the Board of Directors of Fallbrook PUD shall submit to its electors at the next available general or special election the proposition of detaching from CWA.
12. In the above-referenced election, the voters shall approve the proposition of detaching from CWA.
13. The Eastern MWD is a registered-voter district.
14. The Eastern MWD utilizes the County of Riverside assessment roll.
15. The affected territory will be liable for any existing bonds, contracts, and/or obligations of the Eastern MWD as provided under Government Section 57328, and will be subject to any previously authorized taxes, benefit assessments, fees, or charges of Eastern MWD provided under Government Code Section 57330, which Eastern MWD shall be authorized to assess, levy, and/or collect within its boundaries.
16. Pursuant to Government Code section 57202, the effective date of the approval shall be the date of recordation of the certificate of completion, but only after all terms set forth in Number 6 above have been completed as attested by the Executive Officer.
17. As allowed under Government Code Section 56107, the Commission authorizes the Executive Officer to make non-substantive corrections to this resolution to address any technical defects, errors, irregularities, or omissions.
18. Under Government Code Sections 56880-56882, the Executive Officer is hereby authorized and directed to mail copies of this Resolution.
19. The Executive Officer is further authorized and directed to prepare, execute, and record a Certificate of Completion, make the required filings with the County Assessor, County Auditor, and the State Board of Equalization as required by Section 57200, et seq., of the Government Code.

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PASSED AND ADOPTED by the Commission on June 5, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Attest:

Keene Simonds
Executive Officer

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EXHIBIT A
SPHERE OF INFLUENCE DETERMINATIONS

-Placeholder-

EXHIBIT B-1
MAP OF THE AFFECTED TERRITORY

-Placeholder-

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EXHIBIT B-2
GEOGRAPHIC DESCRIPTION OF THE AFFECTED TERRITORY

-Placeholder-

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