



June 22, 2023

Chair Adan Ortega  
Metropolitan Water District of Southern California  
700 N. Alameda Street  
Los Angeles, CA 90012

Via US Mail and email

Dear Chair Ortega,

While we appreciate the apparent interest you have personally taken in the matter of the proposed reorganizations involving our agencies, which if approved would detach the Fallbrook Public Utility District (FPUD) and Rainbow Municipal Water District (RMWD) service areas from the San Diego County Water Authority (SDCWA) and annex them into the Eastern Municipal Water District (EMWD), your email of June 5, 2023 to San Diego LAFCO Executive Officer Keene Simonds highlights your significant misunderstandings of fact and law. In this letter we will attempt to clarify these matters so you will have a better picture of how the law works when there is a reorganization of territory as between two member agencies of the Metropolitan Water District of Southern California—in this case SDCWA and EMWD.

In your email you suggest that the MWD Board has a “prerogative” to approve the proposed reorganization. While this is certainly the case involving annexation of territory into MWD not previously part of MWD, the language of the law here, where there is an exchange of territory between MWD member agencies, is definitive—the MWD Board plays no specific role. The legislature has made this abundantly clear in the plain text of the statute. Attorneys for RMWD, FPUD, EMWD, and San Diego LAFCO are all in agreement, as would an even casual reader of the clear language of the law. In fact, at MWD’s June 13, 2023 Finance, Audit, Insurance, and Real Property Committee meeting MWD staff and legal counsel confirmed this understanding of the law.

It appears that certain members of the legal team from SDCWA, including attorneys for the Brownstein firm, that have been engaging in litigation against MWD for well over a decade, have a different viewpoint (as is evidenced in SDCWA’s letter to LAFCO of May 22, 2023 providing comments on the then draft version of the San Diego LAFCO agenda report). We hope input from those sources has not influenced your viewpoints on this matter. As we documented in a letter last month, your interactions with these attorneys presents a troubling picture of the Chair of MWD’s Board being potentially influenced by such sources.

We hope you understand that should the current reorganization proceed the only impact to MWD is which MWD member agency receives the invoice for the water we purchase. Your assertion that this somehow could disrupt regional planning efforts is misplaced as MWD will deliver the exact same amount of water to our agencies whether we are in SDCWA or EMWD.

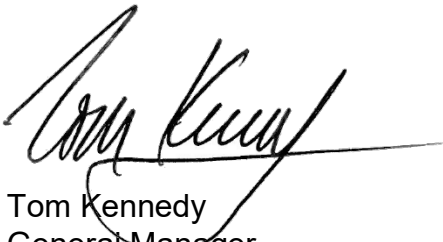
We are additionally confused by the posture and actions you have taken purportedly on behalf of MWD with regard to our reorganization applications, specifically because MWD has not taken any formal action

consistent with your posture and has not taken action to direct or authorize you to undertake your activities related to our applications. We quite frankly believe you are wading into territory that is outside the bounds of your role as an MWD Director and as MWD Chair for that matter. As your actions have been without authorization of the MWD Board, it might result in your shedding discretionary immunity afforded members of legislative bodies when acting within the scope of their role with an agency.

We were glad to hear your comments at the June 13, 2023 MWD Finance, Audit, Insurance, and Real Property Committee meeting where you said “in my communications with San Diego LAFCO, I have never told them not to approve detachment...” and also stated that you “..have nothing against the entities in San Diego County that are looking for more affordable water.” Last, you also stated “...I’m not suggesting that we go out and oppose what’s going on with LAFCO in San Diego”. These statements were nice to hear, but were challenging for us to understand within the context of your other communications.

Finally, we would like to see if you have time in your schedule to meet with us so we can better understand this abrupt shift in perspective from MWD after over three years of engagement on the matter. A number of people are telling us that this change is “political payback” for the lobbyists and attorneys aligned with SDCWA that helped secure your position as Chair of MWD. We certainly don’t think that is the case, but would like to better understand the factors involved with these rather unusual communications to San Diego LAFCO.

Sincerely,



Tom Kennedy  
General Manager  
Rainbow Municipal Water District



Jack Bebee  
General Manager  
Fallbrook Public Utility District

cc: via email:

MWD Board and GM  
SDCWA Board and GM  
SDLAFCO Executive Officer  
Los Angeles Mayor Bass  
San Diego Mayor Gloria