

July 6, 2023

VIA EMAIL

LAFCO Commissioners
Keene Simonds, Executive Officer
San Diego County Local Agency Formation Commission
2550 Fifth Avenue, Suite 725
San Diego, CA 92103
(keene.simonds@sdcounty.ca.gov)

**Re: Fallbrook/Rainbow Proposed Reorganizations
Agenda Item No. 6a/Attachment Two Response to MWD Chair and Related
Communications**

Dear Commissioners and Mr. Simonds:

I am an elected board member of the Otay Water District (Otay), a member of the board of the San Diego County Water Authority (Water Authority) and sit on the board of directors of Metropolitan Water District of Southern California (MWD) on behalf of the Water Authority. I chair the MWD Finance, Audit, Insurance, and Real Property (FAIRP) committee, including at the meeting held on June 13, 2023, which is referenced in the above LAFCO report. I am sending this letter in my role at the Water Authority, based on my personal knowledge of MWD board and committee practice and procedure at MWD.

The “Points of Reasoning” stated in Agenda Item No. 6a/Attachment Two of your board report by your consultant Adam Wilson reflect a fundamental misunderstanding of how the MWD board and committee process works. Even if the FAIRP committee had taken action at its June 13 meeting—which it did not—that action would be subject to a vote by the MWD board of directors to be effective. *Comments made by individual board members in committee **do not constitute a position of the board*** and should not be considered as “instructive for LAFCO purposes,” as advocated by Mr. Wilson. A copy of the FAIRP committee agenda for June 13 may be viewed [here](#). ACTION items are listed at agenda items 3 and 4; annexation policies were on the agenda as a COMMITTEE ITEM for which no action was planned to be taken and none was taken (Chair Ortega’s stated intention to establish an ad hoc committee to review annexations was discussed but no action was taken).

Further, Mr. Wilson’s “Points of Reasoning” do not accurately reflect what MWD’s legal counsel said at the FAIRP meeting or how “internal” reorganization of territory between MWD member agencies has “historically” been treated. To our knowledge, there is *no history* of this

MEMBER AGENCIES

Carlsbad MWD • City of Del Mar • City of Escondido • Fallbrook Public Utility District • Helix Water District • Lakeside Water District • City of National City
City of Oceanside • Olivenhain MWD • Otay Water District • Padre Dam MWD • Camp Pendleton Marine Corps Base • City of Poway • Rainbow MWD
Ramona MWD • Rincon del Diablo MWD • City of San Diego • San Dieguito Water District • Santa Fe Irrigation District • Sweetwater Authority
Vallecitos Water District • Valley Center MWD • Vista Irrigation District • Yuima Municipal Water District

kind of hostile process or third-party mandate by LAFCO; to the contrary, all prior reorganizations involved *mutually agreed-upon exchanges between member agencies*. Even then, the proposals went to the MWD board for approval:

- January 1969: [Exchange of Territory Between Coastal Municipal Water District and Orange County Municipal Water District](#).
- April 1969: [Annexation Terms for Territory Being Transferred from Eastern to Western](#).
- May 1969: [Exchange of Territory Between Eastern Municipal Water District and Western Municipal Water District of Riverside County](#).
- July 2000: [Consolidation of Municipal Water District of Orange County and Costal Municipal Water District](#).

Far from supporting the unprecedented action San Diego LAFCO staff is proposing, Metropolitan's counsel described LAFCO's role as "*essentially a ministerial function*," which is what it normally would be after member agencies have agreed upon an exchange. The Commissioners should **disregard** Mr. Wilson's incorrect "legal" interpretations, baseless "final points" and "recommendations." Similarly, his personal statements about what he thinks MWD's FAIRP committee "wants" or does not "want" should **carry no weight**.

Finally, MWD Chair Ortega provided a further [report](#) to the MWD board of directors (Chair of the Board Adán Ortega Jr.'s Monthly Activity Report – June 2023, Page 5 of 5 Date of Report: July 11, 2023). Here is what he said:

Notable Correspondence

In June, I received a letter (distributed to the Board) from the general managers of two member agencies ("the sub-agencies") of the San Diego County Water Authority (SDCWA) who in 2020 applied to San Diego LAFCO for a simultaneous detachment and annexation to Eastern Municipal Water District (EMWD). The letter was in reaction to the discussion by the Finance, Audit, Insurance, and Real Property Committee (FAIRP) about the potential policy implications from the precedent of forced changes to boundaries within Metropolitan's service area imposed by entities such as San Diego LAFCO, and perhaps other governmental entities; as well as by my previous communication to San Diego LAFCO's Executive Officer.

In their letter, the San Diego sub-agencies admonished me for not subscribing to the culture of personal hostility that erupted from litigation between MWD and SDCWA. In their view, I should regard people associated with SDCWA with apprehension. The letter included references to conspiracy theories about my motives and thinly veiled threats. In recognition of free speech rights, but to avoid the festering and seemingly personal animosities apparently still in play, I will not reply in kind. To be constructive, I have asked staff to ensure that the San Diego sub-agencies are engaged through SDCWA as we discuss affordability in our Climate Adaptation Master Planning Process.

I have acted to protect and promote our Board's policy prerogative on issues affecting boundary changes and their potential precedents impacting Metropolitan's planning, finance, and governance. The consensus at FAIRP as proposed by Director Jeff Armstrong was that an ad hoc committee should be formed to weigh the potential precedent and policy implications. I am consulting with our General Counsel and staff as well as the Board's Vice Chairs about forming the ad hoc committee consistent with the FAIRP committee's discussions. As an alternative, I am also discussing with Diversity, Equity, and Inclusion Committee Chair Tana McCoy and staff about the possibility of weighing the related affordability issues in that committee instead, probably at the Committee's August meeting in order to inform CAMP4Water.

While we stretch to expand supply alternatives to the State Water Project dependent areas, we would be pretending that an involuntary detachment and annexation driven by third parties to secure sole reliance on cheaper imported water for its proponents is inconsequential to our planning efforts. Moreover, it would be an effective reconsideration of our current policies that endorse integrated resources planning, not sole reliance on imported water.

In closing, I want to communicate to the Commissioners that I believe approval of detachment without a firm right to annexation and establishment of the terms of annexation could leave the applicant agencies' customers in a position of risk and uncertainty. I would be happy to address any questions the Commissioners or your staff may have.

Sincerely,

A handwritten signature in black ink that reads "Tim Smith". The signature is written in a cursive, slightly slanted style.

Tim Smith

cc via email:

San Diego County Water Authority Board of Directors
Metropolitan Water District of Southern California Board of Directors
Eastern MWD Board of Directors
Fallbrook MWD Board of Directors
Rainbow PUD Board of Directors
Adam Wilson, Ad Hoc Committee Moderator