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Bill Horn  
County Board of  
Supervisors

**Vice Chairman**

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**Members**

Dianne Jacob  
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Andrew Vanderlaan  
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Lori Zapf  
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Lorraine Wood  
Councilmember  
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Jo MacKenzie  
Vista Irrigation District

**Alternate Members**

Greg Cox  
County Board of  
Supervisors

Chris Cate  
Councilmember  
City of San Diego

Racquel Vasquez  
Councilmember  
City of Lemon Grove

Ed Sprague  
Olivenhain Municipal  
Water District

Harry Mathis  
Public Member

**Executive Officer**

Michael D. Ott

**Special Counsel**

Michael G. Colantuono

**AGENDA**  
**SPECIAL DISTRICTS ADVISORY COMMITTEE**  
**FRIDAY, February 20, 2015, 9:30 A.M.**

**Note: Location at**  
**County Operations Center**  
**5530 Overland Ave, Room 124**  
**San Diego, CA 92123**

<u>Agenda Item:</u>	<u>Recommended Action:</u>
1. Welcome and Roll Call	
2. Approval of Minutes of Meeting held December 19, 2014	Approve
3. Consultant's Recommended Agenda Revisions	Receive
4. Public Comment Opportunity for persons to speak to the Committee on any subject within the Committee's jurisdiction, but not an item on today's agenda. Each speaker's presentation may not exceed 3 minutes.	
5. Consider Action to Nominate Three Persons to Fill Vacancies for 2015.	Approve
6. Status Report on Fallbrook PUD/Rainbow MWD Reorganization.	Discussion/ Comment
7. Committee Member Announcements and Agency Activity Updates.	Information
8. Adjournment to the March 20, 2015 Meeting Date if necessary.	Adjourn
*See Staff Report	

**LOCAL AGENCY FORMATION COMMISSION  
SPECIAL DISTRICTS ADVISORY COMMITTEE  
DECEMBER 19, 2014 MEETING**

**2**

There being a quorum present, the meeting was convened at 9:30 a.m., by Chairman Tom Pocklington (Bonita-Sunnyside FPD). Attending were: **Committee Members** – Gary Arant (Valley Center MWD), Gary Croucher (Otay WD), Judy Hanson (Leucadia WWD), John Pastore (Rancho Santa Fe CSD), Augie Scalzitti (Padre Dam MWD), Janine Sarti (Palomar Health) (left at 10:40 a.m.), Dennis Shepard (North County Cemetery District), Terry Thomas (South Bay ID) and Kimberly Thorner (Olivenhain MWD). Absent were: **Committee Members:** Bill Haynor (Whispering Palms CSD), and Margarett Morgan (Vista FPD). Others Attending: Harry Ehrlich, LAFCO Consultant; Michael Ott, LAFCO Executive Officer; Tom Kennedy, General Manager, Rainbow MWD; Adriana Ochoa, Rainbow MWD Legal Counsel; and Brian Brady, General Manager, Fallbrook PUD.

**Item 2**

**Approval of Minutes of March 21, 2014**

ON MOTION of Terry Thomas, seconded by Kimberly Thorner, and approved unanimously by the Committee members present. The Committee dispensed with reading the March 21, 2014 minutes and approved said minutes.

**Item 3**

**Consultant's Recommended Agenda Revisions**

Harry Ehrlich indicated there are no revisions to the Agenda Items presented at today's meeting.

**Item 4**

**Public Comment**

There were no members of the public requesting to speak.

**Item 5**

**Review Draft Fallbrook PUD/Rainbow MWD Reorganization Report**

Harry Ehrlich indicated Michael Ott, LAFCO's Executive Officer will provide a PowerPoint presentation related to the Fallbrook Public Utilities District (PUD)/ Rainbow Municipal Water District (MWD) Reorganization Draft Report. Mr. Ott explained some of the LAFCO rules and the role of the Advisory Committee to the members/attendees. Before presenting this item, he requested any of the committee members who were present to indicate if they have any conflicts and would like to abstain from voting on this Agenda Item. Gary Arant, Valley Center MWD, and John Pastore, Rancho Santa

Fe CSD, both members have conflicts and requested to abstain from voting on this item. Mr. Ott also requested input from the Committee after the presentation and informed them that their recommendations will be presented to the Commission.

Michael Ott presented an overview of the proposal initiated by Fallbrook PUD for a reorganization submitted to LAFCO. The reorganization involves dissolution of the Rainbow MWD; annexation of the territory within the Rainbow MWD to Fallbrook PUD; and expansion of Fallbrook PUD latent sewer powers authority to cover the Rainbow MWD's territory and associated sphere of influence and service review changes.

Mr. Ott indicated the two districts had previously operated under a prior cooperative Joint Powers Authority (JPA) in 2013. He informed the Committee that the reorganization was first initiated with LAFCO by the Fallbrook PUD's Board of Directors in March 2014 and then in April 2014 after a public hearing was held per Govt. Code Section 56824.12.

Mr. Ott summarized the LAFCO issues covered in the staff report. He stated, the LAFCO Preliminary Staff Report was distributed for extended public review until August 1, 2014, and 396 letters of opposition and 23 letters of support have been received since then. Mr. Ott informed the Committee that Rainbow MWD filed a Resolution of Objection with LAFCO.

Mr. Ott requested input from the Committee to assist LAFCO staff and the Commission in making an informed decision on whether to approve, disapprove, or modify the proposed reorganization. Mr. Ott also requested the Committee's advice on three subject areas: (1) Financial and Service Feasibility; (2) Proposed Governance Structure; and (3) Treatment of Rainbow MWD's Objections. The Committee was asked to address these three primary policy level issues and other issues deemed important.

Dr. Brian Brady, General Manager of Fallbrook PUD gave a PowerPoint presentation on the background of the joint reorganization study, JPA formed by the two agencies to reduce costs through functional consolidation and the eventual breakdown of the JPA in April 2014. Dr. Brady stressed that Fallbrook PUD was seeking to improve the service capability to the property owners and customers in the area and to reduce costs of capital and operations.

Tom Kennedy, General Manager of Rainbow MWD introduced Adriana Ochoa, Legal Counsel to Rainbow MWD who gave a short presentation of concerns for the process of reorganization and possible voter representation if the at-large election method were to be utilized. Mr. Kennedy then gave a PowerPoint presentation stressing local governance, representation and that no local government agency should be forced by another to be dissolved or taken over without its concurrence (the Rainbow MWD Board opposes the reorganization proposal). Mr. Kennedy agreed that the Fallbrook PUD Reorganization is financially feasible but indicated he could not identify what the extent of the savings would be from the analysis in LAFCO staff report.

Subsequent to the staff presentations, the Committee discussion was opened and on each of the three policy questions, comments taken:

1. a. Service summary and financial discussion, is the reorganization feasible?  
Dennis Shepard felt the reorganization is financially feasible; Kimberly Thorner and Gary Croucher concurred. Terry Thomas stated she has concerns whether all financial issues had been identified?
- b. Are there further financial issues that require further review? Other than Ms. Thomas' concern, none were identified.
2. a. If reorganization is approved, would a governing board of four elected by territory and three at-large be appropriate?

A majority of the committee stated support for a large board, probably seven or even nine, as a PUD with as many possible to be elected by territory area. Kimberly Thorner asked if it were possible for an alternative governance structure to be considered that would allow all members of the Board to be elected by territory area (division). Staff advised that this would be researched.

3. a. Regarding Rainbow MWD's objections, which have merit?

Most of the committee stated that the fundamental issues of operating cost savings and efficiency were valid and Rainbow MWD objections regarding costs were not substantiated. Dennis Shepard and Kimberly Thorner believed the analysis showed potential ongoing savings. Gary Croucher referred to prior efforts and savings of the JPA. Most felt that with more time, added savings areas might be identified.

- b. If majority of Rainbow's objections have merit, should LAFCO deny the proposal? None of the committee stated support for this concern. Terry Thomas stated concern that not just voters but "stakeholders" such as businesses and conservation groups be encouraged to review and give input to the proposal.

- c. & d. Should the reorganization still be denied due to Rainbow's strong objections?

The majority of the committee stated support for the two organizations to continue discussions of their interests and concerns to see if a solution could be found benefitting both organizations. If savings can be verified this should be continued to be considered.

- e. If approved by LAFCO and a protest is submitted, should LAFCO require the election be held in both Fallbrook PUD and Rainbow areas, and counted separately or in the combined areas?

A majority of the committee stated support for the election to be held in both areas if the protest were in both areas; in one area if only a protest there. Several committee

members asked that this issue be further discussed and clarified if a solution to the objection is not identified.

- f. If LAFCO approves the reorganization and a protest election is ordered, should the Fallbrook PUD be required to pay the related election costs? A majority of the committee stated support that the proponent, Fallbrook PUD, should pay all election costs. One committee member, Augie Scalzitti, asked that this issue be further clarified in the staff analysis.

At the close of the discussion, a strong majority of the committee stated their hope and expectation that the parties, including LAFCO, continue to hold discussions on possible alternatives and solutions to the proposal and objections.

It was stated by LAFCO staff that this issue may be brought back to the SDAC for an update, probably on February 20, 2015. Executive Officer, Michael Ott offered to convene a meeting of the Fallbrook PUD and Rainbow MWD to facilitate a compromise between the two districts.

The members present voted unanimously to concur with the comments made during the discussion on this item and for LAFCO to receive them.

**Item 6**  
**Selection of Chair and Vice Chair for 2015**

The members present nominated Kimberly Thorner as the Committee Chair and Judy Hanson as the Vice Chair for 2015.

On motion by Gary Croucher and seconded by Dennis Shepard, and carried unanimously to approve the appointments of Kimberly Thorner as the Committee Chairperson and Judy Hanson as the Vice Chairperson for 2015.

**Item 7**  
**Consider Action to Nominate Two Persons to fill Vacancies for 2015**

Harry Ehrlich informed the committee members that currently there are four vacancies that need to be filled. The Committee approved the establishment of a subcommittee: Tom Pocklington; Judy Hansen; and Augie Scalzitti to review and make recommendations to fill the existing vacancies. Gary Croucher requested consideration of the two existing alternate candidates.

There being no further business to come before the Special Districts Advisory Committee, it was noted that the next meeting is tentatively planned for February 20, 2015, if a meeting is to be held. The meeting was adjourned at 11:49 a.m.

**Ruth Arellano**  
**Administrative Assistant**

## Chairman

Bill Horn  
County Board of  
Supervisors

February 20, 2015

## Vice Chairman

Sam Abed  
Mayor  
City of Escondido

TO: Special Districts Advisory Committee

FROM: Special Districts Consultant

## Members

Dianne Jacob  
County Board of  
Supervisors

SUBJECT: Nominations Committee Recommendation to Fill Three  
Advisory Committee Vacancies

Andrew Vanderlaan  
Public Member

Members of the Advisory Committee:

Lori Zapf  
Councilmember  
City of San Diego

At the December 19, 2014 Special Districts Advisory Committee (SDAC) meeting, the Committee established a Nominations Committee to consider possible candidates to fill all or some of the four current vacancies. The members of the Nominations Committee are Judy Hanson, Chair, Tom Pocklington and Augie Scalzitti. The committee met by conference call on January 20, 2015 to consider the identified candidates.

Lorraine Wood  
Councilmember  
City of Carlsbad

Jo MacKenzie  
Vista Irrigation District

## Alternate Members

Four potential candidates from prior SDAC nominations processes were identified.

Greg Cox  
County Board of  
Supervisors

Julianne Nygaard: Boardmember, Tri-Cities Healthcare District - term of 2012-16. She has prior experience on Carlsbad City Council, NCTD, SANDAG and LAFCO.

Chris Cate  
Councilmember  
City of San Diego

Racquel Vasquez  
Councilmember  
City of Lemon Grove

Joel Scalzitti: Boardmember, Helix Water District-term 2012 - 16. Joel was interviewed by the prior Nominating Committee in 2013 when only one vacancy existed and was filled.

Ed Sprague  
Olivenhain Municipal  
Water District

Greg Thomas: General Manager, Rincon del Diablo MWD - hired in 2013. He has prior experience in the private sector engineering/project management and with The US Marine Corps (retired Lt. Colonel) at Camp Pendleton in Public Works function.

Harry Mathis  
Public Member

## Executive Officer

Michael D. Ott

Betty Evans: Boardmember, Vallecitos Water District-term of 2012 - 16. She has prior experience on San Marcos City Council, SANDAG, NCTD and several local non-profits.

## Special Counsel

Michael G. Colantuono

Each were contacted to confirm their current interest in being considered for the vacancies. Only one, Betty Evans of Vallecitos WD, responded that due to increased responsibilities on the Vallecitos Board of Directors, that she respectfully decided to not serve at this time but would like to be considered in the future.


As a result of the discussion by the Nominations Committee, it was recommended to the SDAC Chair that three candidates be appointed to the SDAC: Julianne Nygaard and Joel Scalzitti for terms ending in 2016, and Greg Thomas for a term ending in 2015. One vacancy is recommended to remain open until the next election process. This recommendation was forwarded to Chairperson Thorner and she concurs with the proposed action.

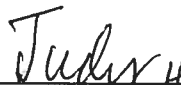
Therefore, it is recommended that:

The full Special Districts Advisory Committee confirm the appointment of three candidates to fill vacancies on the committee with terms ending as noted as follows:

Greg Thomas - 2015  
Julianne Nygaard – 2016  
Joel Scalzitti – 2016

Respectfully submitted by:

  
\_\_\_\_\_  
Harry Ehrlich SDA  
Special Districts Consultant

  
\_\_\_\_\_  
Judy Hanson  
Nominations Committee Chair

## Chairman

Bill Horn  
County Board of  
Supervisors

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## Vice Chairman

Sam Abed  
Mayor  
City of Escondido

February 20, 2015

## Members

Dianne Jacob  
County Board of  
Supervisors

Andrew Vanderlaan  
Public Member

Lori Zapf  
Councilmember  
City of San Diego

Lorraine Wood  
Councilmember  
City of Carlsbad

Jo MacKenzie  
Vista Irrigation District

## Alternate Members

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County Board of  
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Chris Cate  
Councilmember  
City of San Diego

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Councilmember  
City of Lemon Grove

Ed Sprague  
Olivenhain Municipal  
Water District

Harry Mathis  
Public Member

## Executive Officer

Michael D. Ott

## Special Counsel

Michael G. Colantuono

TO: Special Districts Advisory Committee

FROM: Executive Officer  
Local Government Consultant

SUBJECT: Status Report on Fallbrook PUD and Rainbow MWD  
Reorganization

## Background

This memorandum provides a status report to the December 19, 2014 Special Districts Advisory Committee discussion regarding the proposed reorganization of the Fallbrook Public Utility District (PUD) and Rainbow Municipal Water District (MWD). At the December 19<sup>th</sup> meeting, the committee acknowledged the existence of substantial community opposition to the proposed reorganization, but concluded that reorganization makes sense in terms of operational cost savings and efficiency. The committee expressed hope that the affected agencies would cooperate and continue to discuss possible alternatives and solutions in order to address the objections. The Executive Officer offered to facilitate discussions and a compromise in 2015.

Three ad hoc meetings were accordingly scheduled by LAFCO staff (Mike Ott and Harry Ehrlich) with representatives of Fallbrook PUD (Brian Brady and PUD President Don McDougal) and Rainbow MWD (Tom Kennedy and MWD President Dennis Sanford) for January 12, 20, and 27, 2015. At the January 12<sup>th</sup> ad hoc meeting, LAFCO staff made several requests of both Rainbow MWD and Fallbrook PUD. Rainbow representatives were asked to respond to whether the full Rainbow board would support increasing the size of the governing board of the reorganized district from seven to nine members either permanently or temporarily, with 5-6 board seats subject to divisional elections. Fallbrook representatives were requested to develop territorial unit maps showing a 9-member board with 5 to 6 seats subject to divisional elections. The divisional maps were subsequently developed by Fallbrook and forwarded to Rainbow staff, so that the ad hoc committee could consider Rainbow's response on January 20<sup>th</sup>.

The January 20<sup>th</sup> ad hoc meeting was subsequently canceled and postponed until January 27<sup>th</sup> at the request of Rainbow MWD, so that the Rainbow ad hoc committee members Kennedy and Sanford could first confer with additional members of the



Rainbow board. The January 27<sup>th</sup> meeting was then canceled and rescheduled to February 3<sup>rd</sup> at the request of Fallbrook ad hoc members Brady and McDougal, so that the entire ad hoc committee could receive comments from the full Rainbow board. On behalf of the Rainbow MWD board, Rainbow President Dennis Sanford sent a formal response to LAFCO staff on behalf of the full board on January 29, 2015. The Fallbrook PUD verbally responded to Rainbow's January 29<sup>th</sup> letter on February 3<sup>rd</sup>, and a written response from Fallbrook was later sent to LAFCO staff on February 4<sup>th</sup>. Copies of Rainbow's and Fallbrook's letters are attached.

After holding two LAFCO ad hoc meetings between the Rainbow MWD and Fallbrook PUD, agreement was reached on one matter – that being the existence of an impasse. LAFCO staff offered to hold additional ad hoc meetings to further discuss the issues; however, both sides stated that unless movement/compromise was equally made by both districts regarding governance issues, that there would be no need for any additional ad hoc meetings. Based on these impasse conditions, LAFCO staff has now begun finalization of an extensive staff report that will be scheduled for LAFCO consideration later this year. Below are the issue areas that were discussed at LAFCO's January 12<sup>th</sup> and February 3<sup>rd</sup> ad hoc meetings.

### *Governance*

Fallbrook PUD has proposed a governance structure for the reorganized PUD to be comprised of seven members with 4 members elected by territorial unit (division) and 3 members at-large. Rainbow MWD has consistently indicated throughout the reorganization process that it opposes any at-large component of Fallbrook PUD's proposed governance structure. On January 12<sup>th</sup>, LAFCO staff requested Rainbow to consider an alternative to Fallbrook's proposal that would increase the total number of directors of the reorganized district to nine members with 5-6 members elected by territorial unit. On February 3<sup>rd</sup>, Rainbow MWD reiterated its opposition to any governance alternative that had an at-large governance component.

### *Reorganization Alternatives*

Rainbow MWD offered two alternatives for Fallbrook PUD to consider regarding the proposed reorganization: (1) Reorganization of Fallbrook PUD into a Municipal Water District, and/or (2) Reconstitution/reactivation of the North County JPA for functional consolidation purposes. On February 3, 2015, the Fallbrook PUD reiterated its opposition to the modification of the reorganization that would involve changing the principal act for the successor agency from a Public Utility District to a Municipal Water District. Fallbrook stated that the broad latent powers available to Public Utility Districts versus the more limited powers available to Municipal Water Districts conforms to the historic and future service needs of the community. Regarding the reactivation of the JPA, the Fallbrook PUD expressed reservation and opposition to reactivating the JPA based on Rainbow's assertion that a third general manager (e.g., Executive Director) would need to be hired at an additional expense to run the JPA.

### *Groundwater Management*

Rainbow MWD claimed that a Municipal Water District has the requisite powers to best manage groundwater resources and replenishment. The Fallbrook PUD disputed Rainbow's claim that the water code explicitly allows the Rainbow MWD to engage in water replenishment activities. The Fallbrook PUD also indicated that AB 3030 authorizes any local agency (MWDs and PUDs) to manage groundwater resources, despite what may be included in the principal act of the agency. Fallbrook also stated that the groundwater claims made by Rainbow are invalid because groundwater management authorities are granted to any local agency via AB 3030.

## Conclusion

In summary, three ad hoc meetings were scheduled by LAFCO staff for the purpose of encouraging the Rainbow MWD and Fallbrook PUD to resolve differences and discuss possible alternatives to the proposed reorganization. While LAFCO staff has been and will continue to be available to facilitate future meetings, both districts believe that an impasse exists and that future meetings are unnecessary. Consequently, the next step in the process will be to schedule the reorganization proposal for LAFCO consideration. A hearing schedule has not been developed, but it is anticipated that a LAFCO hearing will be held within six months. As the advisory committee is aware, LAFCO has expansive authority and can make a decision regarding the reorganization – even over the objections of both Rainbow MWD and Fallbrook PUD. While it would have been preferable for both districts to reach an agreement on issues, unanimity is not necessary. Therefore, LAFCO will exercise its statutory authority that may resolve the issues by approving, disapproving, or modifying the proposed reorganization that was initiated by the Fallbrook PUD. LAFCO staff will continue to keep the advisory committee updated about this challenging jurisdictional reorganization proposal.

Respectfully Submitted,



MICHAEL D. OTT  
Executive Officer



HARRY EHRLICH  
Local Governmental Consultant

MDO:ra

### Attachments

- (1) Rainbow MWD correspondence, January 29, 2015
- (2) Fallbrook PUD correspondence, February 4, 2015



January 29, 2015

Mr. Michael Ott  
Executive Director  
San Diego Local Agency Formation Commission  
9335 Hazard Way, Suite 200  
San Diego, Ca 92123

Subject: Fallbrook Public Utility District (FPUD) Reorganization Application

Dear Mike:

In your letter dated January 15, 2015, you proposed an alternative governance scenario to the system proposed in the FPUD application to dissolve Rainbow Municipal Water District (RMWD). Specifically, your proposal was to expand the number of board members elected by division from four to six and keep three additional members to be elected at-large. Another option was to have five divisional and four at-large seats. In both scenarios, the board would consist of nine members, at least initially.

As requested, both our Ad Hoc Committee dedicated to this topic as well as our full Board of Directors have considered this proposal, with the latter considering the proposal at the regular board meeting on January 27, 2015.

As you are aware, RMWD agrees that the two agencies could save money for our ratepayers by working together. The development of the JPA is proof of this and the RMWD Board has historically been, and continues to be very supportive of the process. The concerns about FPUD's use of at-large elections remains the primary objection of the RMWD Board to the FPUD application. I have attached the minutes of the February 5, 2014 meeting of the JPA Board; these minutes clearly show a divide between the agencies related to the governance issue. The minutes also show that the RMWD delegation to this joint board made a motion to continue the JPA for two more years so that the two agencies could work on resolving the governance issue, but the FPUD delegation voted the motion down. This provocative act by the FPUD delegates set into motion a chain of events that culminated in the withdrawal of RMWD from the JPA in accordance with the contractual terms established for this situation.

Our Board was very hopeful that the series of face-to-face discussions requested by the LAFCO Special District Advisory Committee would lead to some meaningful discussions about governance and the role of LAFCO in ensuring the efficient

provision of government services. We had hoped that we could find solutions that did not include the at-large election systems used by FPUD. Regrettably, by simply increasing the number of board members so that a greater number could be elected by division and not removing the at-large component, this proposal has failed to cure the primary defect of the proposal. We were disappointed that the discussions focused on trying to fix the issue by retaining at-large elections without considering other options.

The RMWD Board was unanimous in its objection to your proposal and any future proposals that include at-large components to a successor agency's governance systems. This objection was not arrived at lightly – it was given serious consideration and was reached based on the following reasons:

- At-large elections systems have frequently been challenged under the California Voting Rights Act, and have been found to be illegal in each of the challenged instances. It has clearly been shown, time and time again, that at-large methods of election result in voter dilution and racially polarized voting; an at-large governance structure (even if only partially at-large) will affect the rights and privileges of members of Fallbrook and Rainbow's protected classes. LAFCO would be putting itself into a precarious legal situation should it proceed with approving a reorganization that includes an illegal governance scheme.
- The at-large election system will be injurious to RMWD ratepayers since the population of FPUD is so much larger than RMWD and there are long standing entrenched political power bases that virtually guarantee that the combined board will be dominated by the FPUD power base.

During our meeting on January 12, 2015, RMWD offered several alternatives that could achieve the same noble goals of cost savings without sacrificing the voting rights of RMWD ratepayers. Two of these alternatives are:

- 1) Reorganize the two agencies as a Municipal Water District ("MWD") with a board consisting of seven seats elected by division. An MWD has all of the latent powers needed to provide all of the services that the two agencies currently provide. Furthermore, as you know, MWD's are pervasive throughout San Diego County, whereas FPUD is the only Public Utility District in the County. An MWD structure would therefore be a more compatible governance structure with the other water agencies in San Diego County which would streamline any potential future consolidation efforts.
- 2) Begin a process to reconstitute the JPA and leave the two Districts as separate governing bodies but streamline operations through functional (but not political) consolidations. We can achieve and enjoy similar cost-savings to those reached by the former JPA. Remember that RMWD supported extending the JPA while FPUD voted against it.

*Mike Ott  
San Diego LAFCO  
January 29, 2015  
Page 3*

At our meeting on January 12, 2015, Mr. McDougal, president of the FPUD Board, rejected any notion of re-forming as an MWD. He indicated that PUDs have significantly broader latent powers than MWDs and that FPUD wanted to preserve those powers. We indicated that MWDs have all the requisite powers to manage water and wastewater and also are endowed with much broader powers to manage groundwater resources. Groundwater resources in North San Diego County will be an integral part of both of our efforts to reduce demands for imported water; therefore we feel that an MWD is an ideal governmental structure for water and wastewater services for the combined agency.

During the meeting we inquired why FPUD needed to preserve these powers, Mr. McDougal indicated that FPUD felt that the County of San Diego was not serving the Fallbrook Village area in the manner in which they felt was appropriate. He indicated that FPUD could envision providing a wide variety of other services such as making improvements to the roads and medians in the area and that they would need the latent powers of a PUD to make this possible. He went on to say that in his opinion, the residents of RMWD should help pay for these sorts of projects because they drive into Fallbrook. Most of our geographic area is closer to Vista, Escondido, or even Temecula. Respectfully, Mr. McDougal's concept that RMWD ratepayers should pay to improve the Fallbrook Village area is preposterous.

I must admit that we were shocked by this series of statements about the FPUD Board's plans for Fallbrook's future. RMWD has been operating under the idea that we are trying to serve our water and wastewater customers as best and as efficiently as possible. It appears that the FPUD Board has had some other ideas all along and this could explain why maintaining the JPA was not enough for them.

Throughout this process RMWD has held fast to our commitment to serve the water and wastewater needs of our ratepayers. From day one, our discussions with FPUD were focused on these specific services that both of our agencies provide. As the discussion about governance resulted in an impasse because of the voting rights structure of FPUD, we never could quite figure out why FPUD wanted to hold onto the PUD structure to provide water and wastewater services when an MWD is fully empowered to handle this task.

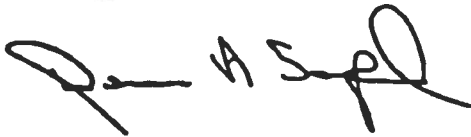
What this meeting revealed is that FPUD true goal is not saving either of our ratepayers' money through improvements in the efficient delivery of water and wastewater services. Through Mr. McDougal's admission at the meeting, and in other discussions with FPUD Board members since, it has become clear that FPUD's true goal is to expand their boundaries to access a larger pool of ratepayers and taxpayers so that they can increase the scope and taxing authority of government in the area.

Mike Ott  
San Diego LAFCO  
January 29, 2015  
Page 4

In closing, I want to reiterate the unanimous objection of the Rainbow Board of Directors to any form of an at-large election system. The RMWD Board also would like to ensure that LAFCO and its Commissioners are fully aware of FPUD's actual intent in this reorganization because it has been demonstrated through their actions that it is not about the efficient provisions of water and wastewater services.

Sincerely,

RAINBOW MUNICIPAL WATER DISTRICT

A handwritten signature in black ink, appearing to read "Dennis Sanford". The signature is stylized and cursive.

Dennis Sanford  
RMWD Board President

Enclosure: Minutes of February 5, 2014 NCJPA Meeting

cc: Bill Pellman, Special Counsel  
Greg Moser, Adriana Ochoa, General Counsel  
Kim Thorner, Chairperson, LAFCO Special District Advisory Committee  
Members of the LAFCO Special District Advisory Committee



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**Board of Directors:**

Milt Davies  
Al Gebhart  
Bert Hayden  
Don McDougal  
Charley Wolk

**Staff:**

Brian J. Brady  
*General Manager*

Jack Bebee  
*Assistant General  
Manager*

Marcie Eilers  
*Admin Services Manager*

Robert H. James  
*Legal Counsel*

Mary Lou Boultinghouse  
*Board Secretary*

February 4, 2015

Mr. Michael D. Ott  
Executive Officer  
San Diego LAFCO  
9335 Hazard Way, Suite 200  
San Diego, California 92123

Subject: Reply to Sanford Letter of January 29, 2015 re: Fallbrook Public Utility District (FPUD) Reorganization Application

Dear Mr. Ott:

Thank you and Harry Ehrlich for facilitating settlement discussions yesterday between FPUD and Rainbow representatives. While the meeting did not result in a clear path forward for the Rainbow board to join in FPUD's reorganization application, it did allow for a "clearing of the air" concerning representations made by Rainbow's Board President Dennis Sanford in his January 29<sup>th</sup> letter to you (attached).

Following are excerpts from Mr. Sanford's letter and our responses to them:

1. "As you are aware, RMWD agrees that the two agencies could save money for our ratepayers by working together. The development of the JPA is proof of this and the RMWD Board has historically been, and continues to be very supportive of the process...."

**Response. We applaud the Rainbow Board's continued recognition of the economic benefits of a district merger to all ratepayers.**

2. "I have attached the minutes of the February 5, 2014 meeting of the JPA Board; these minutes clearly show a divide between the agencies related to the governance issue. The minutes also show that the RMWD delegation to this joint board made a motion to continue the JPA for two more years so that the two agencies could work on resolving the governance issue, but the FPUD delegation voted the motion down. This provocative act by the FPUD delegates set into motion a chain of events that culminated in the withdrawal of RMWD from the JPA in accordance with the contractual terms established for this situation...."

**Response.** The actual process at the February 5, 2014 JPA board meeting was as follows:

- Rainbow representatives offered a motion to lock-in a two-year extension of the JPA.
- Fallbrook representatives indicated the motion was unnecessary because the JPA automatically renews every April 5.
- The motion was defeated 4-3.

The action was largely procedural and in no way indicated FPUD's lack of commitment to the JPA. However, Rainbow did vote to terminate their participation in the JPA three weeks later...a very provocative move, prompting FPUD's subsequent request to LAFCO.

3. "It has clearly been shown, time and time again, that at-large methods of election result in voter dilution and racially polarized voting; an at-large governance structure (even if only partially at-large) will affect the rights and privileges of members of Fallbrook and Rainbow's protected classes...."

**Response.** In spite of numerous requests, Rainbow has yet to offer any credible evidence that blended divisional/at-large voting systems (especially when the majority of seats are by division) result in "voter dilution and racially polarized voting."

4. "The at-large election system will be injurious to RMWD ratepayers since the population of FPUD is so much larger than RMWD and there are long standing entrenched political power bases that virtually guarantee that the combined board will be dominated by the FPUD power base...."

**Response.** FPUD registered voters number about 15,000 and Rainbow's between 12-13,000. Based upon planned residential developments in the Rainbow service territory, over the next one or two election cycles the number of registered voters in Rainbow will exceed those in FPUD. Never the less, Rainbow's public relations consultants continue to develop imaginary terms, such as "political power bases."

5. "Reorganize the two agencies as a Municipal Water District ("MWD") with a board consisting of seven seats elected by division. An MWD has all of the latent powers needed to provide all of the services that the two agencies currently provide...."

**Response.** The North County Joint Powers Authority Board (including a majority of the Rainbow Board) voted unanimously that the merged agency would be under Public Utility District law. The recommendation to the JPA board was made by Rainbow's own general counsel.



6. “Begin a process to reconstitute the JPA and leave the two Districts as separate governing bodies but streamline operations through functional (but not political) consolidations. We can achieve and enjoy similar cost-savings to those reached by the former JPA. Remember that RMWD supported extending the JPA while FPUD voted against it....”

**Response. Rainbow initiated the termination of the North County JPA, not FPUD. The benefits of merged districts have already been demonstrated by the 2013 JPA operations. Little additional information would be derived from re-constituting the JPA.**

7. “We indicated that MWDs have all the requisite powers to manage water and wastewater and also are endowed with much broader powers to manage groundwater resources....”

**Response. Public utility districts, as well as many other local water supply agencies, all have the statutory authority to develop groundwater management programs. All such agencies derive their authority from AB 3030 (1992).**

8. (a) “Mr. McDougal’s [FPUD Board President] concept that RMWD ratepayers should pay to improve the Fallbrook Village area is preposterous.

(b) It appears that the FPUD Board has had some other ideas all along and this could explain why maintaining the JPA was not enough for them.

(c) ... we never could quite figure out why FPUD wanted to hold onto the PUD structure to provide water and wastewater services when an MWD is fully empowered to handle this task.

(d) What this meeting revealed is that FPUD true goal is not saving either of our ratepayers’ money through improvements in the efficient delivery of water and wastewater services. It has become clear that FPUD’s true goal is to expand their boundaries to access a larger pool of ratepayers and taxpayers so that they can increase the scope and taxing authority of government in the area.

(e) The RMWD Board also would like to ensure that LAFCO and its Commissioners are fully aware of FPUD’s actual intent in this reorganization because it has been demonstrated through their actions that it is not about the efficient provisions of water and wastewater services....”

**Response. The most troubling passages in Mr. Sanford’s letter are the above series of remarks, implying that FPUD has a hidden motive for advancing its merger proposal with Rainbow. That motive being the ability to “increase the scope and taxing authority of government.”**

Mr. Michael D. Ott  
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February 4, 2015

**There is one problem with Mr. Sanford's narrative. The purported conversation at the January 12<sup>th</sup> meeting never took place (as confirmed by LAFCO staff).**

**When asked in yesterday's meeting why Mr. Sanford chose to make these false and misleading statements, Mr. Kennedy, Rainbow's general manager, confirmed that these remarks represented Rainbow's new public relations strategy of "going negative."**

FPUD appreciates the continued work of the LAFCO staff as they evaluate the merits of our reorganization proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian J. Brady".

Brian J. Brady, Ed.D., P.E.  
General Manager

Attachment (1)



County of San Diego  
County Operations Center

5500-5595 Overland Avenue, 9325-9355 Hazard Way  
San Diego, CA 92123

(858) 694-3610

December 2013

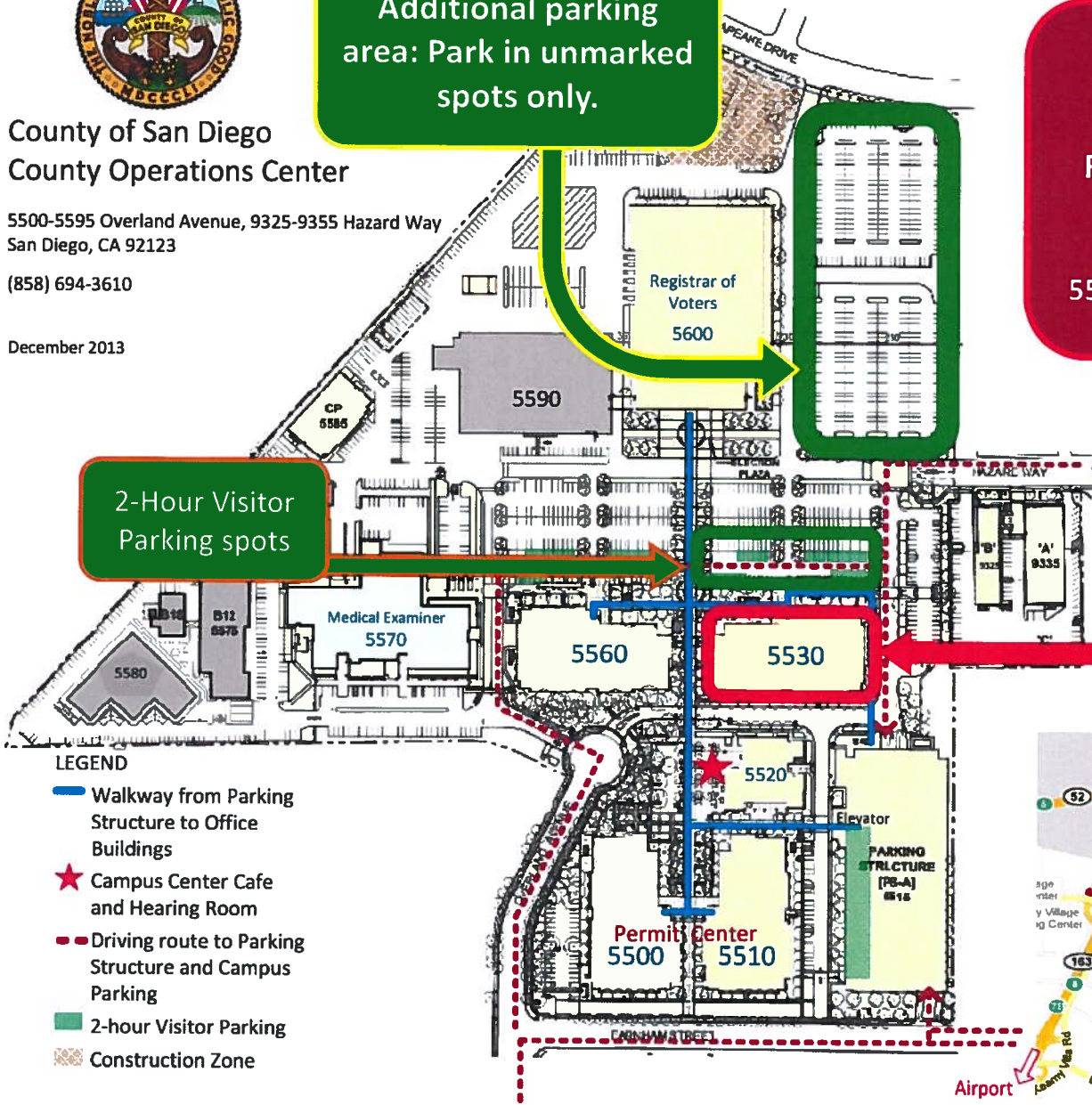
Additional parking area: Park in unmarked spots only.

LAFCO Special Districts  
Advisory Committee  
  
Friday, 2/20/14, 9:30AM  
  
County Operations Center  
5530 Overland Ave, Room 124  
San Diego, CA 92123

2-Hour Visitor  
Parking spots

Should arrive from  
Hazard Way

Meeting Location



- LEGEND
- Walkway from Parking Structure to Office Buildings
  - ★ Campus Center Cafe and Hearing Room
  - - - Driving route to Parking Structure and Campus Parking
  - - - 2-hour Visitor Parking
  - ▨ Construction Zone

