

7b LAFCO Report to Commissioners
Procedures 2): Invite comments from interested audience members
Comments by Gary Croucher

- Thank you and good morning Chair Jacob, Mr. Simonds and LAFCO staff and members of the Commission.
- I am Gary Croucher. In addition to representing the Otay Water District on the Ad Hoc Committee, I am also currently the Vice-Chairman of the Water Authority Board of Directors.
- I want to reinforce Sandy Kerl's earlier comments during these proceedings about the Water Authority's role and function as a regional planning agency.
- The Water Authority not only has responsibility for compliance with a wide range of state laws, including the Delta Reform Act of 2009, but also represents our County on the board of directors of MWD itself. The Water Authority has four board members we appoint to represent the interests of San Diego County and our voting rights according to the MWD Act.
- Eastern is also a member agency of MWD, representing its voting rights there also according to the MWD Act.
- The Water Authority has lawsuits pending against MWD, which began almost 10 years ago, challenging MWD's water rates, in order to protect the rights and pocketbooks of San Diego County ratepayers and taxpayers. So far, based on court rulings, the Water Authority and its member agencies and ratepayers will receive almost \$50 million for recovery of illegal MWD rates, including interest. This amount only covers a four-year period from 2011-2014; other years will be determined later. A judgment is expected to be entered in the next week or so.
- The Water Authority has also recovered through the lawsuits, water rights valued in the hundreds of millions of dollars. These recoveries represent rights that Eastern and MWD had disputed and denied to San Diego County ratepayers and taxpayers, including the people who live and work in Fallbrook and Rainbow.
- Until the litigation is settled or otherwise resolved, the interests of Eastern and the Water Authority remain adverse in the litigation.
- I asked at our last Ad Hoc Committee meeting whether our Committee will be reviewing the record of the last LAFCO proceeding involving Fallbrook and Rainbow. I have taken the time to go through that record, and believe that it would be extremely beneficial for staff and you as Commissioners to see the claims that were being made by these

agencies less than five years ago—many of which are inconsistent with claims now being made in this proceeding. I reiterate this request because I think it could save everyone a lot of time to gain some insight into what the real problem is.

- No one disputes that these are troubled retail agencies. As the 2014 LAFCO record will show, one or both, have internal management issues and rate challenges that would have been addressed by LAFCO's 2014 staff recommendations which were ultimately rejected based largely on opposition from Rainbow.
- Blaming the regional authority for their problems may be politically attractive in the short term, but it will do nothing but further destabilize both districts and San Diego County over the long term.
- The Water Authority seeks to protect our region's success and planning over the past 25+ years, but we also want to protect Fallbrook and Rainbow ratepayers and taxpayers. This is why our Board of Directors adopted its Resolution on detachment, designed to protect the interest of all agencies, parties and ratepayers in San Diego County.
- I request that you read these comments into the record verbatim, which I believe can be accomplished within the three-minute limitation.
- Thank you for this opportunity to provide public comment and I look forward to working with the other members of the Ad Hoc Committee and LAFCO staff toward a resolution of these issues to the satisfaction of all parties and to the benefit of San Diego County.

**San Diego County LAFCO
Regular Meeting Agenda
Monday, August 3, 2020 9:00 A.M.
Agenda Item 7-b, Advisory Committee Update
Proposed Rainbow MWD and Fallbrook PUD Reorganizations (discussion)
Public Comment by Mark Muir**

Good morning, Chair Jacob and Commissioners and LAFCO staff. My name is Mark Muir. I am a retired Encinitas Fire Chief and former Encinitas City Councilmember. I am also the last past Chairman of the San Diego County Water Authority Board of Directors, where I represented the City of Encinitas. Prior to that time, I was also an elected member of the Olivenhain Municipal Water District, which I also represented at that time on the Water Authority Board of Directors.

I previously provided public comment to the Ad Hoc Committee at its July 6, 2020 meeting. I attach a copy of that testimony and ask that you consider it as part of today's proceedings and as part of the ongoing LAFCO proceedings relating to the proposed detachment by Fallbrook and Rainbow from the San Diego County Water Authority.

The main purpose of my July 6 testimony was to express a cautionary note as these proceedings begin because, in my experience, ideas like this—which may seem simple at first blush—are in fact highly complex when viewed in the full and relevant factual, legal and political context. Here, what is being presented as a simple rate issue actually involves highly complex regional and statewide water supply, financial, political and planning issues affecting San Diego County.

The Water Authority has spent hundreds of millions of dollars and decades transforming our region from being 95% dependent on an imported water supply controlled outside of San Diego County, to becoming the “poster child” for regional resiliency and self-sufficiency. Less than 30 years ago, in 1990, San Diego County was 95% dependent on water from MWD. Today, we are less than 30% dependent on MWD and water controlled outside of San Diego, and planning to be even less so in the future.

The Water Authority has taken these actions in alignment with statewide water policy law and objectives including the 2009 Bay-Delta legislation. We have only been able to achieve this extraordinary success by working together and collectively with SANDAG, the County of San Diego, Water Authority member agencies and our business, ratepayer and stakeholder communities—as one region.

I urge again that the Commission ensure that qualified subject matter experts be retained who are accountable to LAFCO and the public in order to independently assess the facts and claims made by the applicants about detachment benefits.

I renew my offer to assist you and your staff in any way possible and thank you for this opportunity to provide public comment.

**San Diego County LAFCO
Rainbow MWD and Fallbrook PUD Reorganization Proposals
Monday, July 6, 2020 at 9:00 AM
Public Comment by Mark Muir**

- Good morning, Mr. Simonds and members of the Ad Hoc Advisory Committee. My name is Mark Muir. I am a retired former Encinitas Fire Chief and City Councilmember.
- I am also the last past Chairman of the San Diego County Water Authority, where I represented the City of Encinitas. Prior to that time, I was an elected member of the board of directors of the Olivenhain Municipal Water District, which I also represented at that time on the Water Authority Board of Directors.
- As a former Fire Chief, I've been involved with a number of high-level reorganizations, consolidations, and other types of organizational studies. Most reorganizations are focused on cutting costs, promoting growth, cultural change, and/or shifting strategic focus. Whatever the specific objectives, reorganizations almost always involve making major structural changes in pursuit of better performance.
- Despite the fanfare that usually invites or accompanies a reorganization movement, most create fallout that is unanticipated and unproductive to one or more parties. Prior to making any recommendations, I would strongly suggest that subject matter experts be retained who are accountable to LAFCO and the public to independently assess the facts and claims about detachment benefits.
- Given the nature of the water business and long term planning horizons, the guiding principles and structural review of detachment cannot focus on short term issues or the next rate increase but must also focus on the long term financial impacts and complex future water service and delivery needs of our region. This is consistent with the requirements of the State of California to provide 20-25 year assessments in Urban Water Management Plans.
- I believe San Diego LAFCO, like the Water Authority, has a responsibility to evaluate how the proposed detachments will impact all member agency ratepayers within San Diego County, including Fallbrook and Rainbow.
- One final note I would add is that there is no way of knowing whether MWD's costs are fairly allocated, whether its rates are appropriately set or include project implementation costs, without access to the financial planning model MWD uses to set its rates and charges. MWD's position is that it will not allow access to its rate model, claiming it is proprietary and a trade secret. Claims of knowing what MWD's rates will be are for this and other reasons, purely speculative.

- The regional planning process for water supply in San Diego County has been especially strong and successful due to the Water Authority's longstanding collaboration with SANDAG and the board's focus on—and planning for—future generations.
- I wish you the best and look forward to following your work. Please do not hesitate to call upon me if I may be of any assistance to the process.