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May 23, 2022

VIA U.S. MAIL AND E-MAIL TO: KEENE.SIMONDS@SDCOUNTY.CA.GOV

Keene Simonds
Executive Officer
San Diego County Local Agency Formation Commission
2550 Fifth Avenue, Suite 725
San Diego, CA 92103

Re: CEQA compliance regarding Fallbrook Public Utility District's
Reorganization Application

Dear Mr. Simonds:

Best Best & Krieger LLP represents Fallbrook Public Utility District ("FPUD") as general counsel. We submit this letter in response to San Diego County Water Authority's ("SDCWA") April 27, 2020 and May 12, 2022 correspondence regarding FPUD's Reorganization Application. As it has done in the past, SDCWA continues to misstate both the law and the facts. San Diego County Local Agency Formation Commission ("LAFCO") responded to SDCWA by letters dated May 5, 2022 and May 13, 2022 and FPUD concurs with those responses.

SDCWA's April 27, 2020 letter repeats CEQA arguments raised in SDCWA's prior correspondence. FPUD responded to these CEQA arguments in its July 23, 2020 letter and demonstrated SDCWA's contentions are meritless. Because the reorganization requested in FPUD's application would not result in any direct or reasonably foreseeable indirect change in the physical environment, FPUD's proposed reorganization is not a project within CEQA's meaning. (Pub. Resources Code §§ 21080, subd. (a) and 20165.) Further, even if the reorganization was a "project," it is exempt from CEQA under the Class 20 exemption (14 Cal. Code Regs. § 15320) for changes in the organization of local agencies. The Class 20 exemption applies to reorganizations of local governmental agencies when, as here, there are no changes to the geographical area where the previously existing powers are exercised. Finally, SDCWA again fails to provide evidence that there would be any environmental effects from FPUD's reorganization, much less significant environmental effects.

SDCWA asserts that the reorganization would increase reliance on the Delta, but it fails to demonstrate how such alleged reliance may have a significant effect on the environment. Nor can SDCWA make that showing because alleged increased reliance does not mean that increased

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amounts of water will be diverted from the Delta. Argument, unsubstantiated opinion and speculation are not evidence. (Pub. Resources Code § 21080, subd. (e)(2).)

SDCWA's April 27, 2022 letter also makes incorrect factual arguments regarding the list of non-CEQA issues identified in your April 15, 2022 email to FPUD Staff. Because FPUD Staff is currently working, as applicable, with LAFCO Staff on those issues, FPUD will refrain from responding to SDCWA's misstatements at this time.

FPUD appreciates the work that LAFCO and its Staff are undertaking to review FPUD's Reorganization Application. We remain available to provide LAFCO Staff with any additional information regarding the Application.

Sincerely,



Paula C. P. de Sousa
Amy Hoyt
of BEST BEST & KRIEGER LLP

cc: LAFCO Commissioners
Ad Hoc Advisory Committee Members
Jack Bebee, FPUD General Manager
Holly Whatley, LAFCO Counsel
Mark Hattam, SDCWA General Counsel
Sandra L. Kerl, SDCWA General Manager
Tom Kennedy, RMWD General Manager