



San Diego County
Local Agency Formation Commission
 Regional Service Planning | Subdivision of the State of California

August 22, 2022

DELIVERED VIA ELECTRONIC MAIL

Ms. Sandy Kerl, General Manager
 San Diego County Water Authority
 4677 Overland Avenue
 San Diego, CA 92123

SUBJECT: Response to SDCWA Memo to Board of Directors (August 17, 2022)

Ms. Kerl,

San Diego County Local Agency Formation Commission (LAFCO) staff appreciates the opportunity to review and provide comments on the scheduled agenda discussion at the San Diego County Water Authority’s meeting on Thursday, August 25, 2022, regarding the status of the detached proposals by Rainbow Municipal Water District and Fallbrook Public Utility District. I have reviewed the board letter and associated attachments in coordination with LAFCO staff. Towards this end, and on behalf of LAFCO staff, please note the following comments:

1. The board letter summarizes key background points associated with the two detachment proposals that range from their filing origins with LAFCO (Section A) to the analysis performed by Dr. Michael Hanemann, as part of the initial work of the Ad Hoc Committee (Section B). These summaries appear consistent with previous SDCWA communications, and while some differences of facts and/or opinions remain, there are no new comments to provide.
2. The board letter outlines several topics associated with the review of the detachment proposals that the SDCWA believes need to be considered by LAFCO (Section C). I can confirm that the topics listed in the board letter have been provided to LAFCO in previous communications and LAFCO staff will appropriately address each as the detachment proposals proceed forward to the LAFCO Commission.
3. The board letter includes an accompanying memorandum from SDCWA Counsel Mr. Mark Hattam regarding LAFCO’s scheduled Municipal Service Review on SDCWA and MET. The memorandum – and among other features – asserts LAFCO cannot use the Municipal Service Review process to “usurp” SDCWA’s governance rights and ability to set rates. The

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memorandum's preparation appears to be largely sourced to interferences made by the SDCWA during the last meeting of the Ad Hoc Committee held on August 11, 2022. The following comments are specific to the memorandum:

- a. LAFCO is required to regularly prepare Municipal Service Reviews in conjunction with its statutory task to review and update all local cities and special districts' spheres of influences, as appropriate and within an approximate five-year timeframe.
- b. In addition to directly performing sphere of influence updates, Municipal Service Reviews are intended to advise LAFCO on the merits and/or associated constraints of any jurisdictional changes that may be initiated over the next five-year timeframe. LAFCO – importantly – may also initiate its own jurisdictional changes involving special districts if consistent with a Municipal Service Review recommendation. Examples include forming, consolidating and/or dissolving special districts and establishing one or more successor agencies.
- c. SDCWA is a special district subject to San Diego LAFCO's regulatory and planning powers. The only material distinction where standard LAFCO oversight may deviate involves a special allowance available to SDCWA to request approval to apply alternative conducting authority proceedings should LAFCO approve one or more changes of organization. This allowance has been requested and approved for both detachment proposals.
- d. The memorandum correctly states that LAFCO cannot use the Municipal Service Review to directly change the SDCWA's rate structure. However, and as employed by San Diego LAFCO, the Municipal Service Review can recommend changes in rates, rate structures and/or other financial practices in step with LAFCO's statutory task to help ensure local agencies remain fiscally solvent in providing their authorized services. Should these recommendations go unaddressed, LAFCO would have obligation to explore other options available in statute in addressing the underlying concerns.

In conclusion, thank you again for allowing LAFCO to review and provide comment to your communications and appreciate the opportunity to participate at your next hearing.

Sincerely,

Adam Wilson, Consultant
San Diego LAFCO