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November 30, 2022

Adam Wilson, Moderator
San Diego LAFCO
2550 Fifth Avenue, Suite 725
San Diego, CA 92103

Via email: priscilla.mumpower@sdcounty.ca.gov

Subject: Comments on the SDLAFCO Prospectus for the Fallbrook PUD and Rainbow MWD Proposed Reorganizations

Dear Mr. Wilson,

Thank you for the opportunity to comment on the San Diego Local Agency Formation Commission (SDLAFCO) Prospectus for the Fallbrook Public Utility District (Fallbrook) and Rainbow Municipal Water District (Rainbow) Proposed Reorganizations. Below are Olivenhain Municipal Water District's (OMWD) formal comments on the key findings in bold from the draft Prospectus:

Finding by SDLAFCO: LAFCO Statute Governs.

LAFCO statute – and not the County Water Authority Act – governs consideration of the proposals. Among other pertinent outcomes this means LAFCO has broad authority to condition any proposal approvals using the Commission's quasi-legislative powers.

OMWD Comments: This is a legal issue for SDLAFCO Counsel to determine, however OMWD does not take exception to this finding, as the ability for SDLAFCO to condition an exit fee ultimately protects the ratepayers of OMWD.

Finding by SDLAFCO: Eastern MWD's Supplies are Reliable.

Although the County Water Authority's potable supply portfolio is superior given its diversification, Eastern MWD's own supply via Metropolitan Water District of Southern California (MET) is adequate and can reasonably accommodate demands now and going forward for both Fallbrook PUD and Rainbow MWD.

Comments: OMWD believes that San Diego County Water Authority's (SDCWA) supply reliability is superior due to its diversified supply portfolio.



Finding by SDLAFCO: Eastern MWD's Finances are Healthy.

Standard measurements used to assess the Eastern MWD's financial standing shows it trended positively over the last five fiscal years with respect to liquidity, capital, and margin levels. The latter is highlighted by Eastern MWD finishing with positive total margins in four of the five years with an overall average of 4.5%.

Comments: OMWD does not take issue with this conclusion.

Finding by SDLAFCO: Fallbrook PUD and Rainbow MWD's Ratepayers Will See Cost-Savings. LAFCO estimates the average monthly household impact for Fallbrook and Rainbow ratepayers is \$20.21 and \$26.79, respectively assuming full pass-through to ratepayers.

Comments: OMWD does not take issue with this conclusion. Both Fallbrook and Rainbow have expressed that their pursuit of detachment has been driven by cost savings for their ratepayers.

Finding by SDLAFCO: County Water Authority Member Agencies' Ratepayers Will See Cost-Increases.

LAFCO estimates through the help of an Ad Hoc Working Group the average monthly household impact for the remaining members agencies of the County Water Authority is \$2.20 assuming full pass-through to ratepayers. The City of San Diego impact (largest CWA customer) is estimated at \$1.05 per month/per household.

Comments: OMWD does not agree with this simplistic breakdown of the cost impacts to the ratepayers. Each SDCWA member agency will need to determine how it will pass along any cost increases to their own ratepayers. Estimations can be calculated for each member agency as a whole, but to take the agency level impacts and divide them by number of households within that agency is not an accurate impact calculation as it does not take into account commercial, industrial, irrigation and agricultural accounts nor does it take into account the unique rate structures at each of the member agencies. Reliance on the Ad Hoc Workgroup's calculations by member agency and a true up of the numbers since 2020 which were used in the Hanemann report would be a more accurate reflection of the impacts if there were no detachment fee.

Finding by SDLAFCO: Approval of the Proposals is Reasonable if Conditioned on an Exit Fee. It would be appropriate to condition approval to require an annual true-up – or exit fee – equal to the estimated revenue loss (water sales, property taxes, available fees) for the County Water Authority should both Fallbrook PUD and Rainbow MWD detach. The purpose of the exit fee is to provide the County Water Authority a period of adjustment. This annual amount has been estimated by Dr. Hanemann in the short run at \$12.6 million.

Comments: OMWD concurs with the exit fee concept and feels that the \$12.6 million figure needs to be trued up to 2023 numbers based on high inflation and rate increases since the data relied on in the Hanemann report was from 2020.

Finding by SDLAFCO: Five Years is an Appropriate Length for an Exit Fee.

As referenced, the purpose of an exit fee is to provide the County Water Authority and its remaining member agencies a level of financial protection in the short run while they adjust to the changed financial situation associated with Fallbrook PUD and Rainbow MWD detaching. Five years appears to be an appropriate standard to apply an annual exit fee.

Comments: OMWD believes that there needs to be a nexus between the length of the exit fee and the impact on member agencies. A nexus of water sales rebounding (for 3 years) to a level higher than the lost water sales from Fallbrook and Rainbow would be a reasonable and protective nexus for the length of an exit fee to be imposed.

Finding by SDLAFCO: Offsetting the Exit Fee to Reflect Ancillary County Water Authority Savings is Reasonable.

The County Water Authority would save money should Fallbrook PUD and Rainbow MWD detach that would otherwise be expended on proceeding with the previously planned construction of the ESP North County Pump Station. The value of the associated savings – however –remains a topic of ongoing analysis.

Comments: OMWD believes more analysis needs to be done on this. An offset would not be a 1:1 offset as Fallbrook and Rainbow ratepayers would also need to pay for a portion of the cost of the ESP North County Pump Station if they stayed.

Finding by SDLAFCO: Loss of Voting Rights at MET is a Valid Concern with a Possible Solution. Should Fallbrook PUD and Rainbow MWD detach from the County Water Authority and annex into Eastern MWD a proportional change in voting rights at MET would follow.

The estimated value of voting rights – though relatively small – is substantive given it falls within the margin of a recent key vote at MET involving the selection of their new general manager. One possible and otherwise merited solution would involve applying a separate condition to require a MOU between Eastern MWD and County Water Authority to retain the voting apportionment associated with Fallbrook and Rainbow for at least the first five years.

Comments: OMWD agrees that this is a valid concern, however it does not agree that this is a legal nor feasible resolution. MWD voting rights are set by statute and cannot be legally contracted away by member agencies.

Finding by SDLAFCO: Other Terms and/or Measures May Also Be Appropriate Based on Commission.

Preferences Possible examples:

- **A LAFCO prescribed “roll-out” requiring Fallbrook PUD and Rainbow MWD to remain member agencies with County Water Authority for a specified period of time before allowing the detachments to formally proceed.**

Comments: OMWD questions the legality of this proposal as it interferes with the independent autonomy and decision making of each of the government

bodies involved, unless SDLAFCO itself decides to delay the processing of the detachments.

Finding by SDLAFCO: Other Terms and/or Measures Raised by Others Appear Problematic Example:

- **The County Water Authority is on record requesting San Diego LAFCO condition any proposal approvals on expanding the “affected territory” for purposes of calling an election to include all registered voters within its member agencies’ boundaries. Commission Counsel does not believe this option is available to the Commission.**

Comments: This is legal issue within the purview of SDLAFCO General Counsel and no other information that this statement was made available yet to determine the reasoning behind this statement by SDLAFCO as to why this is not an option. Further information and reasoning by SDLAFCO counsel is necessary to fully understand this position.

Finally, of great importance to OMWD is the ability to participate in this public process. We are the voice of our ratepayers on this issue. We are requesting that SDLAFCO allow more time for public review and comment than is required under statute once the final report is released. A time period of 45 days would allow for us to analyze the final report and present it to the OMWD Board of Directors in order for our agency to provide meaningful input on our position to the LAFCO Commission. Your consideration of this request is appreciated.

Please let me know if you have any questions on this letter or the request for additional time to review the final report once it is available. Thank you to both you and the SDLAFCO staff for your herculean effort throughout this process and your transparency throughout the same.

Sincerely,



Kimberly A. Thorner, Esq.
General Manager

cc. OMWD Board of Directors