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May 13, 2021

VIA E-MAIL AND U.S. MAIL Keene.Simonds@sdcountry.ca.gov

Andrew Vanderlaan
 Chair
 San Diego LAFCO
 9335 Hazard Way
 San Diego, CA 92123

Jim Desmond
 Vice Chair
 San Diego LAFCO
 9335 Hazard Way
 San Diego, CA 92123

Re: San Diego LAFCO Twitter

Dear Chair Vanderlaan and Vice Chair Desmond:

Our firm represents the San Diego County Water Authority. Today, the Water Authority discovered that San Diego LAFCO has posted the following tweet, which is quoting and re-tweeting materials from Rainbow MWD and Fallbrook PUD's public relations campaign supporting detachment, and which further links to a Voice of San Diego opinion piece from the presidents of both of those agencies supporting detachment:

SDLAFCO Local Agency Formation Commission
 @sdlafco

An important discussion regarding @fallbrookwater and @RainbowMWD proposing a reorganization involving detachment from the San Diego County Water Authority (@sdcwa) and annexation to the Riverside County - Eastern MWD (@EasternMuni). ICYMI, watch here: youtube.com/watch?v=qVQR6K...

Water Mark @OtayMark · 14h
 Why We @FallbrookWater & @RainbowMWD Want Out of the @SDCWA.

Over the past decade, Fallbrook & Rainbow water customers have overpaid nearly \$50 million to the San Diego County Water Authority compared to the benefits they've received, according to a study bit.ly/3tJu8RY

SDCWA No-Benefit Charges Rainbow MWD & Fallbrook PUD		
Year	FPUD & RMWD Fixed Charges (Actual Paid)	ME Fair Share
2010	\$2,764,056	\$1,998,344
2011	\$4,322,772	\$2,545,010
2012	\$4,924,066	\$2,934,981
2013	\$5,608,001	\$3,124,415
2014	\$5,920,868	\$3,217,095
2015	\$5,794,826	\$3,413,438
2016	\$6,815,783	\$4,209,883
2017	\$6,627,607	\$4,195,347
2018	\$6,706,283	\$4,394,110
2019	\$6,520,391	\$4,419,971
10-Year Total	\$56,004,653	\$34,452,595

This appears to be a conflict of interest, in which LAFCO appears to be endorsing the position of agencies who have a pending application before LAFCO. Our firm and the Water Authority General Counsel called LAFCO counsel at about 10:00 a.m. today as soon as we saw the Twitter post, and demanded that it be immediately taken down by LAFCO. LAFCO still, as of 3:00 p.m. today when this letter is being sent, has not removed the retweet of the biased material.

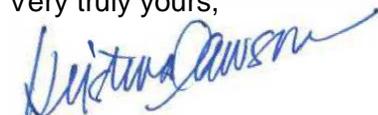
In the midst of this controversial issue pending before LAFCO, now under review by an expert consultant retained by LAFCO, and as a matter that is coming before your Commission for decision within the next year, we found this post exceptionally troubling, and we are very concerned that it indicates bias on the part of San Diego LAFCO.

First, you should know that the retweet is of inaccurate facts that are being promoted by a PR campaign orchestrated in San Diego County by the agencies seeking to detach. This campaign is intended to spread misinformation about detachment before LAFCO's own substantive review process is completed, in order to improperly influence the LAFCO outcome, without regard to the merits of the applications. LAFCO should not consider the information from this PR campaign to be anything other than advertising "spin." For LAFCO staff to promote this campaign by using LAFCO's Twitter feed to broadcast this misinformation -- with what the public would perceive as LAFCO's stamp of approval -- is unconscionable.

Second, you should know that the Water Authority has previously expressed concerns about the impartiality of this proceeding to LAFCO staff. When the Water Authority had its very first meeting with LAFCO Executive Officer Keene Simonds and LAFCO counsel Holly Whatley on August 20, 2019, they informed LAFCO of a significant issue: that in May of 2019, when Rainbow MWD General Manager Tom Kennedy first told Water Authority General Manager Sandy Kerl that Rainbow and Fallbrook were intending to initiate detachment proceedings, Mr. Kennedy stated that there would be no point in the Water Authority even opposing detachment because it had already been pre-arranged at LAFCO. The Water Authority also informed Mr. Simonds and Ms. Whatley that responses to Public Records Act requests had shown that LAFCO staff had been working with these agencies for many months without providing any notice to the Water Authority. Mr. Simonds and Ms. Whatley assured the Water Authority that LAFCO would be a neutral evaluator of the merits of the detachment application, and no predeterminations had been made.

Demand is hereby made again that LAFCO immediately remove this retweet and quote tweet. Further, the Water Authority respectfully requests assurances from LAFCO that this kind of Twitter event will not happen again, and that the reorganization applications will be processed in a neutral and unbiased manner based on the data and information provided by the parties, now being assessed by the expert consultant. We also request an explanation of how the Twitter post came to be posted by LAFCO and what LAFCO's policies are regarding social media with respect to matters pending before LAFCO.

Very truly yours,



Kristina D. Lawson
Managing Partner

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KDL:sa

cc via email:

Water Authority Board of Directors
Sandra L. Kerl, General Manager, San Diego County Water Authority
Mark Hattam, General Counsel, San Diego County Water Authority
Keene Simonds, SD LAFCO Executive Officer
Holly Whatley, SD LAFCO Commission Counsel
Adam Wilson, SD LAFCO Moderator
Tom Kennedy, General Manager, Rainbow MWD
Jack Bebee, General Manager, Fallbrook PUD
Alfred Smith, Counsel, Rainbow MWD
Paula C. P. de Sousa, Counsel, Fallbrook PUD
Nick Kanetis, Deputy General Manager, Eastern MWD