

**RESOLUTION NO. 15-14**

**RESOLUTION OF OBJECTION  
OF THE BOARD OF DIRECTORS OF THE RAINBOW MUNICIPAL WATER DISTRICT  
TO THE FALLBROOK PUBLIC UTILITY DISTRICT'S  
RESOLUTION AND APPLICATION FOR REORGANIZATION  
TO THE SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION**

**BE IT RESOLVED** by the Board of Directors of the RAINBOW MUNICIPAL WATER DISTRICT ("Rainbow"):

**WHEREAS**, on March 10, 2014, the Fallbrook Public Utility District ("FPUD") passed Resolution No. 4813, which purported to be a Resolution of Application by the Fallbrook Public Utility District Requesting the San Diego County Local Agency Formation Commission to Take Proceedings for a Reorganization with the Rainbow Municipal Water District and Making Certain Findings Under the California Environmental Quality Act, in violation of the notice and hearing requirements of law, and thereafter improperly submitted said resolution together with an Application for Reorganization to the San Diego Local Agency Formation Commission ("LAFCO") on March 11, 2014;

**WHEREAS**, FPUD thereafter noticed a public hearing pursuant to Government Code § 56824.12, and on April 28, 2014, passed Resolution No. 4815, which amended Resolution No. 4813. Resolution No. 4815, Amended Resolution of Application by the Fallbrook Public Utility District Requesting the San Diego County Local Agency Formation Commission to Take Proceedings for a Reorganization with the Rainbow Municipal Water District and Making Certain Findings Under the California Environmental Quality Act (the "FPUD Resolution"), was submitted to LAFCO together with an Application for Reorganization ("Application for Reorganization") on April 29, 2014;

**WHEREAS**, the FPUD Resolution and Application for Reorganization seek the dissolution of Rainbow, a district annexation of Rainbow territory to FPUD, a reduction of Rainbow's sphere of influence to a zero sphere, and an expansion of FPUD's latent sewer powers to include Rainbow territory, and is not a special reorganization as defined by Government Code § 56075.5;

**WHEREAS**, Rainbow received notice of FPUD's Application for Reorganization on May 28, 2014, and was asked to submit comments on any aspects or possible effects of the Application for Reorganization by July 11, 2014, which deadline was extended by the LAFCO Executive Director to August 1, 2014;

**WHEREAS**, the Board of Directors of the Rainbow Municipal Water District passed and submitted Resolution 14-13, a Resolution of Objection to FPUD's Resolution and Application for Reorganization, in response to FPUD's Application for Reorganization; specifically, Rainbow passed and submitted Resolution 14-13 for the purpose noting RMWD's strong objection to the FPUD Resolution and Application for Reorganization;

**WHEREAS**, RMWD's Resolution 14-13 contained a variety of objections to the FPUD Application based largely on financial and service related concerns, in addition to concerns over negative impacts to agriculture, voting rights, and employees;

**WHEREAS**, after nearly a year of evaluation of the FPUD application, LAFCO staff released its Staff Report regarding the FPUD application on June 5, 2015 to be considered at the July 6, 2015 LAFCO Commission meeting;

**WHEREAS**, during the course of the period of evaluation by LAFCO, RMWD staff had made several attempts to convince LAFCO staff that the financial analyses submitted by FPUD as part of its application were seriously flawed and did not provide substantial evidence sufficient to support FPUD's claims either for financial savings or their assertion that no service-related impacts would result from the reorganization;

**WHEREAS**, LAFCO staff had made it very clear that they would not fully review the financial analyses provided by FPUD and based this position on the misleading claim of FPUD that RMWD had adopted the Draft Consolidation Study provided by FPUD to support their application despite the Study being an incomplete, untested draft presented for illustrative purposes and discussion only;

**WHEREAS**, at the July 6, 2015 LAFCO Commission meeting, Commissioner Dianne Jacob directed LAFCO staff to evaluate the financial claims made by FPUD in its application, citing conflicting information as the basis for the evaluation;

**WHEREAS**, neither RMWD nor FPUD ever adopted the Draft Consolidation Study, or even affirmed its contents since the report used by FPUD was a draft staff document, was never approved, and did not ever become an official approved action of either agency;

**WHEREAS**, through a series of information gathering efforts by LAFCO staff, FPUD was unable to and has continued to be unable to provide credible, substantial evidence in the form of backup documentation to support the financial claims made in their application;

**WHEREAS**, Rainbow is an affected local agency and an affected district as defined by Government Code sections 56014 & 56013, respectively;

**WHEREAS**, this resolution is made pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000, with specific reference to Sections 56668.3(a)(4) and 56668.3(b) of the California Government Code, which sections permit the filing of a resolution raising objection by an affected agency, and by a district;

**WHEREAS**, this supplemental resolution is submitted in light of the misleading information contained in the FPUD application, the supplemental information provided at LAFCO's request by both FPUD and RMWD, and the continuing lack of credible substantial information before LAFCO to support the determination of cost benefits or the improvement of public services of the proposed reorganization;

**WHEREAS**, this resolution is made as a supplement to Resolution 14-13 and serves to add to the content of that resolution rather than replace it;

**NOW, THEREFORE**, Rainbow raises the following objections to the FPUD Application:

1. RAINBOW OBJECTS to the FPUD Resolution and Application for Reorganization because the Draft Consolidation Study that FPUD has included in its Application is deeply flawed, does not contain demonstrably accurate information and data, and, lacking in substantial evidence to support the necessary determinations, is unsuitable to support the findings that are outlined in Exhibit E of the July 6, 2015 LAFCO Staff Report. Specifically, the following findings are not supported by the FPUD application:

- a. **Finding 16** – FPUD has not demonstrated with the presentation of credible substantial evidence that the cost benefits identified in this Finding are true and correct.
  - b. **Finding 25** – RMWD’s Resolution of Objection 14-13 contains financial and service related concerns which have been shown to have merit through this review of the flawed financial analysis. The Commission cannot use this flawed analysis as presented by FPUD and incorporated by LAFCO staff as the basis of rejecting RMWD’s Resolution of Objection 14-03.
  - c. **Finding 28** – The Commission cannot find that the provisions of 56425(h) have been satisfied as FPUD has not demonstrated through the presentation of credible substantial evidence that the proposed reorganization will result in “efficient and affordable” service delivery. The financial analysis is missing key features to allow any conclusion to be drawn as to the exact financial impact to RMWD ratepayers, and thus no credible determination about efficiency or affordability can be made in the absence of substantial evidence even after the invited supplement of additional data in light of the original misleading information included in the application. Further, FPUD has only provided speculation about service delivery rather than appropriate studies of actual current and projected service levels.
  - d. **Finding 29** – the Commission cannot find that the reorganization will “stabilize rates for agricultural and non-agricultural water users” because the financial analysis lacking in credible substantial evidence and therefore is inaccurate and incomplete. It is impossible to determine what the actual cost impacts to RMWD ratepayers would be due to shortcomings in the financial analysis, and thus no determination about rate impacts could be made. Also, due to dilution in agricultural representation in a combined agency, it is more likely than not that agricultural interests will have less influence over rate design in the future.
2. RAINBOW OBJECTS to the FPUD Resolution and Application for Reorganization because the claims made by FPUD related to financial savings are not supported by the Draft Consolidation Study, nor by additional information provided to LAFCO staff by FPUD since July 6, 2015. No credible substantial evidence has been provided by FPUD to LAFCO to support FPUD’s claims.
  3. RAINBOW OBJECTS to the FPUD Resolution and Application for Reorganization because the only credible evidence demonstrates that proposed job cuts which would result from the proposed reorganization will cause immediate disruption of service delivery to the Rainbow ratepayers. FPUD’s supplemental information failed to demonstrate through any credible substantial evidence that there would not be degradation in service to the ratepayers as a result of the proposed job cuts. In fact, the cuts proposed would have immediate and perhaps long term negative impacts on service to ratepayers.
  4. RAINBOW OBJECTS to the FPUD Resolution and Application for Reorganization because the overwhelming majority of public comments in response to the FPUD Application for Reorganization opposed the reorganization. **LAFCO received well over 600 letters in opposition to the reorganization**, and only about 30 letters in support of the reorganization. In accordance with Government Code Section 56668(m), the Commissioners must take into account the input from affected stakeholders.

**NOW, THEREFORE,** this Resolution of Objection is hereby approved and adopted by the Board of Directors of the Rainbow Municipal Water District. The San Diego County Local Agency Formation Commission is hereby **requested to take notice of this second Resolution of Objection and to give great weight to the objections raised in this Resolution,** as mandated by the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000. (Government Code §§ 56668.3(a)(4) and (b).)

**PASSED, APPROVED, AND ADOPTED** by the Board of Directors of the Rainbow Municipal Water District at a regular meeting thereof held on August 25, 2015, by the following vote:

**AYES:** Directors Brazier, Griffiths, Lucy, Sanford, and Walker  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

  
Dennis Sanford, Board President

**ATTEST:**  
  
Dawn M. Washburn, Board Secretary