

NOTICE OF EXEMPTION

TO: <input checked="" type="checkbox"/> Office of Planning and Research P. O. Box 3044, Room 113 Sacramento, CA 95812-3044	FROM: (Public Agency) Fallbrook Public Utility District
<input checked="" type="checkbox"/> Clerk of the Board of Supervisors, or County Clerk 1600 Pacific Highway, Suite 260, MS: A-33, San Diego, CA 92101 County of San Diego	Address 990 E. Mission Road, Fallbrook, CA 92028

Project Title:	Memorandum of Understanding for Planning Process and General Terms for Consideration of the Annexation of Rainbow Municipal Water District and Fallbrook Public Utility District into Eastern Municipal Water District for Wholesale Imported Water Service (MOU)
Project Applicant:	Fallbrook Public Utility District
Project Location—Specific:	Fallbrook Public Utility District provides retail water service in its area of service located within San Diego County California, as depicted on Exhibit A.
Project Location—County: Project Location—County:	Fallbrook Public Utility District’s service area includes 44 square miles in the Fallbrook community Fallbrook Public Utility District’s service area is located in the County of San Diego
Description of nature, purpose, and beneficiaries of Project: <p align="center">FILED Ernest J Dronenburg, Jr. Recorder County Clerk SEP 23 2019 K. Bao BY _____ DEPUTY</p>	<p>Fallbrook Public Utility District (Fallbrook) and Rainbow Municipal Water District (Rainbow) provide retail water service in their respective services areas, located within the County of San Diego. Fallbrook and Rainbow are wholesale water customers of the San Diego County Water Authority (San Diego CWA). Fallbrook and Rainbow are contemplating detachment/exclusion from San Diego CWA and have initiated discussions with Eastern Municipal Water District (Eastern) regarding the potential opportunity for annexation to Eastern.</p> <p>Eastern and San Diego CWA acquire imported water from the Metropolitan Water District of Southern California (Metropolitan) and make imported water supplies, and other water supplies, available on a wholesale basis to retail water agencies within their respective service areas.</p> <p>Annexation to Eastern would allow Fallbrook and Rainbow to directly receive water deliveries from Metropolitan, in lieu of water supplies currently provided to them by San Diego CWA.</p> <p>The MOU would allow Fallbrook, Rainbow and Eastern to work cooperatively to explore, analyze, plan and consider the annexation opportunity. The purpose of the MOU is to formalize the mutual understandings between Fallbrook, Rainbow and Eastern for the exploration, planning and consideration of Fallbrook and Rainbow’s potential annexation to Eastern for the receipt of wholesale water deliveries.</p>

Name of Public Agency approving project:	Fallbrook
Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the activity:	Fallbrook Rainbow and Eastern are also parties to the MOU
Exempt status: (check one)	
<input type="checkbox"/> Ministerial project.	Pub. Res. Code § 21080(b)(1); State CEQA Guidelines § 15268
<input checked="" type="checkbox"/> Not a project.	State CEQA Guidelines § 15378
<input type="checkbox"/> Emergency Project.	Pub. Res. Code § 21080(b)(4); State CEQA Guidelines § 15269(b)
<input checked="" type="checkbox"/> Categorical Exemption. State type and section number:	State CEQA Guidelines § 15320 (changes in organization of local agencies)
<input type="checkbox"/> Declared Emergency.	Pub. Res. Code § 21080(b)(3); State CEQA Guidelines § 15269(a)
<input type="checkbox"/> Statutory Exemption. State Code section number:	
<input checked="" type="checkbox"/> Other. Explanation:	State CEQA Guidelines § 15061(b)(3)
Reason why project is exempt:	<p>The MOU is not a “project” subject to CEQA</p> <p>The MOU is not a “project” as CEQA defines that term. An activity is a “project” subject to CEQA only if it has the potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect change to the environment. (Public Resources Code § 21065; State CEQA Guidelines § 15378). The MOU has no such potential.</p> <p>First, the MOU does not authorize Fallbrook to take any action that would cause any direct or reasonably foreseeable indirect change in the environment. The MOU simply provides a framework for Fallbrook, Rainbow and Eastern to engage in discussions regarding potential annexation to Eastern. The MOU does not effectuate or implement either detachment from San Diego CWA or annexation to Eastern.</p> <p>Second, Fallbrook’s Board of Directors has not made a decision to detach from San Diego CWA and pursue annexation to Eastern, and the MOU does not constitute such a decision. The MOU does not commit Fallbrook to pursue detachment/exclusion from San Diego CWA or pursue annexation to Eastern. Indeed, the MOU does not commit Fallbrook to take <i>any</i> action that would have a physical impact on the environment. Rather, the MOU provides parameters for Fallbrook, Rainbow and Eastern to <i>discuss</i> possible future annexation to Eastern.</p> <p>Third, the MOU states that CEQA compliance would be required for any activities that are implemented in the future. Thus, if Fallbrook’s Board of Directors decides in</p>

the future to pursue detachment/exclusion from San Diego CWA and pursue annexation to Eastern, Fallbrook will comply with any applicable CEQA requirements at that time. It is premature and speculative to conduct CEQA review before that decision has been made.

Fourth, the MOU states that if the Fallbrook Board of Directors decides to pursue detachment/exclusion from San Diego CWA and to pursue annexation to Eastern, the “obligations, commitments, and responsibilities” of Fallbrook and Eastern would be “defined through a subsequent agreement for implementation.” The specific terms of that potential future agreement are currently unknown, and as such, CEQA review at this point would be premature and speculative.

Even if the MOU is a “project,” it is exempt

Even if the MOU is deemed to be a project within CEQA’s meaning, the MOU is exempt under the catch-all “common sense” exemption (State CEQA Guidelines § 15061(b)(3)) and the categorical “change in organization” exemption (State CEQA Guidelines § 15320).

Common sense exemption: The common sense exemption applies when it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment. Here, there is no possibility that the MOU might have any significant effect on the environment for the following reasons:

1. As explained above, the MOU provides a framework for discussions and does not authorize or commit Fallbrook to detach from San Diego CWA or seek annexation to Eastern. The MOU does not authorize or commit Fallbrook to take any action that would cause a physical change to the environment, either directly or indirectly.
2. The MOU does not change any existing water allocations, alter the amount of water that Fallbrook (or Rainbow) will receive, or make any change to the source of Fallbrook’s (or Rainbow’s) water supplies.
3. The MOU does not create new water management measures, authorize construction of any new facilities, or authorize modification of any existing facilities.
4. The MOU authorizes discussions between Fallbrook, Rainbow and Eastern regarding potential annexation and does not modify any existing physical conditions.

Change in organization exemption: The change in organization exemption applies to “changes in the organization or reorganizations of local governmental agencies where the changes do not change the geographical area in which” the agency exercises its existing powers.

Here, as explained above, the MOU does not constitute a decision by Fallbrook to pursue detachment/exclusion from San Diego CWA and pursue annexation to Eastern, nor does it commit Fallbrook to detachment/exclusion and annexation, nor does it effectuate detachment/exclusion and annexation. Instead, it authorizes Fallbrook to discuss possible annexation with Rainbow and Eastern. Such discussions do not change the organization of Fallbrook or

	<p>reorganize Fallbrook.</p> <p>But assuming solely for argument's sake that the discussions somehow constitute a change in organization or a reorganization, the exemption would apply because the MOU does not change to the geographical area in which Fallbrook exercises its existing powers.</p> <p>Exceptions to exemptions do not apply</p> <p>Finally, substantial evidence in the record, including the evidence discussed above, demonstrates that none of the exceptions identified in CEQA Guidelines § 15300.2, which prohibit the use of an exemption, apply here. The MOU does not present any unusual circumstances that would create a significant effect on the environment. Further, the MOU would not create cumulative impacts, damage scenic resources, be utilized on a hazardous waste site, or impact any historic resources.</p>
Lead Agency Contact Person:	Jack Bebee, General Manager
Telephone:	(760) 728-1125

Signature: 
 Title: General Manager

Date: 8/29/2019

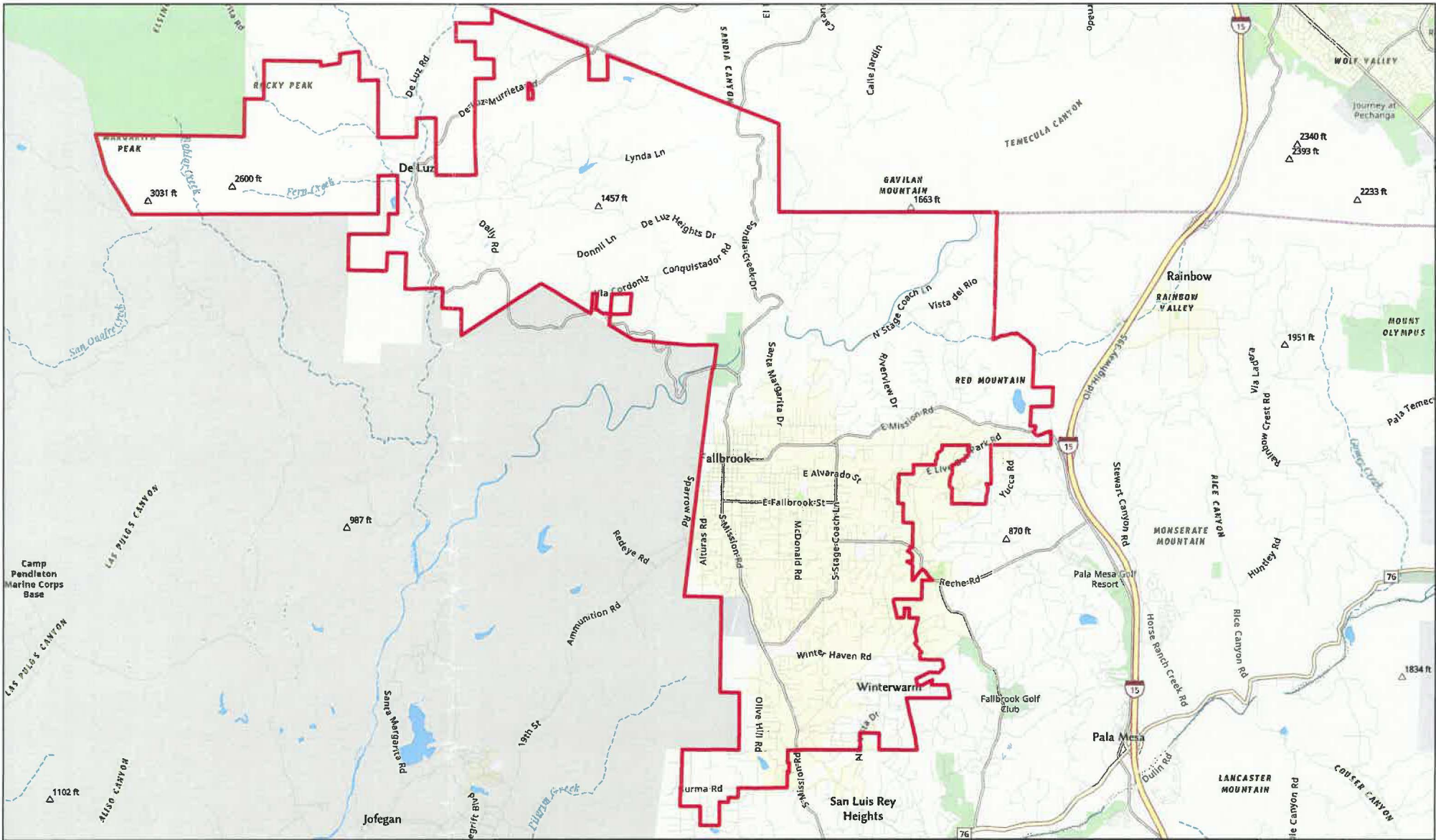
Date Received for Filing: _____

(Clerk Stamp Here)

Authority cited: Sections 21065, Public Resources Code; CEQA Guidelines Sections 15061, 15268, 15269, 15320, and 15378.

Reference: Sections 21080, 21084, 21152, and 21152.1, Public Resources Code.

FILED IN THE OFFICE OF THE COUNTY CLERK
 San Diego County on SEP. 23 2019
 Posted SEP. 23 2019 Removed OCT. 25 2019
 Returned to agency on OCT. 25 2019
 Deputy 
K. Bao



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