



DENVER WATER

1600 West 12th Avenue • Denver, Colorado 80204-3412
Phone 303-628-6000 • Fax No. 303-628-6199 • denverwater.org

February 9, 2011

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: SEC Ruling, File Number S7-45-10

Denver Water appreciates the opportunity to provide comments on the SEC's proposed ruling regarding the definition of "municipal advisor". Our comments focus on the exclusions from the definition of "municipal advisor" as proposed in Release 34-63576. Registration for municipal advisors should be tightened to prevent fraudulent activities and conflict of interest, but the proposed inclusion of appointed board members as municipal advisors would have serious adverse consequences to hundreds of local government entities.

The only rationale for including officials that appears in Release 34-63576 is the statement that "appointed members, unlike elected officials and elected *ex-officio* members, are not directly accountable for their performance to the citizens of the municipal entity." We respectfully disagree with this statement and believe it does not reflect reality. Denver Water's Board is appointed by the elected Mayor of Denver and is accountable to the public. The Board operates under a Charter established by the voters of the City of Denver. The Board is subject to the same open meetings laws, public record laws, and code of ethics as agencies run by elected officials. Denver Water's financial records are audited annually by an independent auditing firm approved by the City Auditor. Finally, the stability and soundness of Denver Water's financial management is regularly examined by outside bond rating agencies.

Many appointed boards in Colorado are subject to criteria that board members represent different backgrounds (e.g. agriculture, real estate, health care, engineering, planning, etc.) or geographic locations (e.g. Congressional districts, river drainages, etc.). Requiring these appointed board members to register as municipal advisors would reduce those statutory criteria to secondary status. The requirement to register as municipal advisors would impose a financial burden on prospective appointees and would likely lead some current appointed board members to resign and probably reduce the number of citizens willing to volunteer to only a handful of people with a financial background. The requirement would also impose constraints on elected officials trying to make such appointments.

Denver Water Board members have diverse backgrounds, experience and expertise they bring to their roles as policy makers. The Board, as the decision maker, always hires independent third party experts on matters related to investments and bond issuance. The proposed rules confuses this role, suggesting

that these board members, the intended beneficiaries of municipal advisor regulation, are “municipal advisors” themselves.

Excluding appointed board members from the definition of municipal advisor, as you have with elected board members, is consistent with the proposed SEC ruling because appointed board members are accountable to the public. Excluding appointed board members also avoids unintended consequences of limiting representative constituent groups to financial advisors and having a chilling effect on the transparency that already exists in open board meetings and discourse on matters related to bond issues.

Sincerely,

A handwritten signature in black ink, appearing to read "James S. Lochhead". The signature is written in a cursive style with a large, looping initial "J".

James S. Lochhead
CEO/Manager