

# LATE COMMENT



March 26, 2015

Scott S. Slater  
Attorney at Law  
310.500.4600 tel  
310.500.4602 fax  
SSlater@bhfs.com

**VIA E-MAIL AND U.S. MAIL (commentletters@waterboards.ca.gov)**

SWRCB Members  
Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

**Re: March 18, 2015 Workshop Regarding the Status of the Salton Sea and Revised Order WRO 2002-0013**  
**Subj: Balancing Article X, Section 2 and Salton Sea Restoration**

Dear Chair Marcus and Members of the Board:

The San Diego County Water Authority appreciates the opportunity to have participated in the March 18, 2015 workshop conducted by the State Water Resources Control Board (State Water Board) concerning the Imperial Irrigation District's (IID) Petition regarding restoration of the Salton Sea. The workshop elicited a consistent theme of concern, predominantly over air quality based health and safety issues in the Imperial Valley attributable to an exposed surface playa and the effect of decreased inflows on Salton Sea fish and bird populations. That this subject matter was pursued under the State Water Board's continuing jurisdiction of the IID water transfers authorized under Revised WRO 2002-0013 is unfortunate.

Although the State Water Board staff presentation made reference to the history of the Board's prior orders regarding efforts to curtail IID's inefficient irrigation practices, it is these inefficient irrigation practices that have produced the flows that have sustained the Salton Sea for decades. After finding that IID's practices were inconsistent with the requirement of article X, section 2 of the California Constitution, the State Water Board itself required IID to adopt more efficient water use practices. (See In the Matter of Alleged Waste and Unreasonable Use of Water by Imperial Irrigation District (1984) D-1600.) The IID conserved water transfers and QSA are direct responses to the State Water Board's order to make agricultural water use in the Imperial Valley more efficient and reduce the amount of agricultural runoff.

In D-1600, more than a decade before the QSA, the State Water Board exhaustively reviewed IID's water use practices and required IID to complete a conservation plan that all understood would result in reduced inflows to the Salton Sea. Moreover, the State Water Board maintained "continuing jurisdiction until it could determine that the requirements of Article X, Section 2 of the California Constitution are being met."

Four years later, in reviewing the status of IID's conservation plans, the State Water Board found that the conservation of 367,900 AFY was a reasonable long-term conservation goal. (In the Matter of Waste and Unreasonable use of Water by Imperial Irrigation District (1988) Order WR 88-20, at p. 44.) Moreover, the Order endorsed a transfer, then under consideration by IID and the Metropolitan Water

District of Southern California (MWD), that would be consistent with the State Water Board's directives in D-1600, and pursuant to which water would be conserved using funding from MWD's proposed transfer payments. The Order further acknowledges that conservation would reduce inflows into the Salton Sea, but the State Water Board nevertheless found that conserved water transfers were a central element of IID's conservation strategy and would provide the funding necessary to accomplish the improved efficiency. (Order WR 88-20 at pp. 11-13.)

During the State Water Board's prior evaluation of IID's irrigation practices, whether to continue to allow the stranding of approximately 1 million AFY of California's Colorado River entitlement in the Salton Sea was not considered a reasonable outcome. Rather, the focus was always on how the conservation would proceed and who would provide the required funding. As previously noted, the QSA conserved water transfers answered the funding question in a manner the State Water Board found consistent with article X, section 2's mandates.

The State Water Board's issuance of Revised WRO 2002-0013 culminated an 18-year process to cause an increase in agricultural efficiency within the IID. The QSA gained the support of six other States and the United States Department of Interior, who, in 2002 and 2003, had also raised questions about the efficiency of IID's water irrigation.

This brief history is intended to reemphasize that the obligation of the State of California to complete the job that it pledged to complete-- to develop a financially feasible restoration plan for the Salton Sea that will avoid all of the deleterious impacts of an exposed surface playa as the Sea recedes and then stabilizes with a lesser quantity of inflow attributable, with such reduction in inflows -- is a result of the implementation of reasonable irrigation practices compelled by the State Water Board's Decision and Order enforcing California Constitution Article X, Section 2, not the QSA-authorized conserved water transfers *per se*.

The Authority remains willing to participate in discussions regarding the manner in which the State can fulfill its obligation as part of any reasonable stakeholder group, though, as indicated at the March 18, 2015 Workshop, the Authority prefers that this effort be lead out of the Governor's Office.

Sincerely,



Scott S. Slater

cc: Mitchell Moody  
Matthew McCarthy