



Winston H. Hickox
Agency Secretary
Cal/EPA

State of California
California Environmental Protection Agency

Gray Davis
Governor



Air Resources Board | Department of Pesticide Regulation | Department of Toxic Substances Control

Integrated Waste Management Board | Office of Environmental Health Hazard Assessment | State Water Resources Control Board | Regional Water Quality Control Board

Letter - S4. California Environmental Protection Agency. Signatory - Ricardo Martinez.

April 26 2002

Mr. Bruce D. Ellis
U.S. Bureau of Reclamation
Phoenix Area Office
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Via Fax: (602) 216-4006

Mr. Elston Grubaugh, Manager
Imperial Irrigation District
Resource Planning & Management Department
PQ Box 937
Imperial, California 92251
333 East Barioni Boulevard
Imperial, California 92251

Via Fax: (760) 339-9009

RE: IMPERIAL IRRIGATION WATER CONSERVATION AND TRANSFER PROJECT,
DRAFT HABITAT CONSERVATION PLAN-DRAFT ENVIRONMENTAL IMPACT
REPORT/ENVIRONMENTAL IMPACT STATEMENT, CALIFORNIA

Dear Sirs:

Thank you for the opportunity to comment on the "Imperial Irrigation District Water Conservation and Transfer Project Draft Habitat Conservation Plan-Draft Environmental Impact Report/Environmental Impact Statement". The comments of the California Environmental Protection Agency (Cal/EPA) are comprised of the attached comments from the Air Resources Board, the Office of Environmental Health Hazard Assessment, and the April 18, 2002 comments previously submitted by the California Regional Water Quality Control Board, Colorado River Basin Region.

We look forward to continuing to work with you to identify and resolve environmental issues related to the border region and its surrounding environment.

Questions related to the review comments may be directed to the Cal/EPA, Border Affairs Unit, at (916) 324-7316 and the appropriate Cal/EPA Boards, Departments or Office, which originated the comment.

Sincerely,

Ricardo Martinez
Assistant Secretary for Border Affairs

cc: See next page.

Mr. Bruce D. Ellis
Mr. Elston Grubaugh
April 26, 2002
Page 2

cc: Ms. Mary Nichols
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Resources Agency
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Mr. Michael Spear
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Mr. John Robertus
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Ms. Celeste Cantu
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**AIR RESOURCES BOARD
SPECIFIC COMMENTS ON IID WATER TRANSFER
ENVIRONMENTAL ANALYSIS**

Contact: Sylvia Oey (916) 322-8279

54-1

The California Air Resources Board (ARB) has reviewed the Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS), State Clearinghouse Number 99091142, for the transfer of 300,000 acre-feet per year (af/yr) of conserved water from the Imperial Irrigation District (IID) to San Diego County Water Authority (SDCWA) and/or the Coachella Valley Water District (CVWD). The transfer will facilitate efforts to reduce California's Colorado River water consumption to its allotment of 4.4 million acre-feet per year. ARB is concerned that the proposed transfer agreement and the associated Draft EIR/EIS do not adequately address or provide for the air quality impact that may occur if the transfer results in a decrease in amount of water flowing into the Salton Sea.

54-2

54-3

Adequacy of the CEQA Review. The California Environmental Quality Act (CEQA) mandates that an EIR/EIS identify feasible mitigation measures to alleviate the environmental impacts identified for a proposed project. The Draft EIR/EIS estimates that 50,000 acres of lakebed could be exposed as a result of the proposed transfer. The Draft EIR/EIS does not provide air quality mitigation options for exposed lakebed at the Salton Sea, but instead identifies air quality impacts as "potentially significant unavoidable impact". The Draft EIR/EIS does include a Habitat Conservation Plan (HCP) to address the incidental taking of endangered species habitat, pursuant to Section 10(a)(1)(B) of the Endangered Species Act. Approach 2 of the HCP proposes following farmland to supply enough water to the Salton Sea to maintain the baseline elevation. HCP Approach 2 is the only option presented that would mitigate air quality impacts from the exposed lakeshore at the Salton Sea caused by the IID water transfer. The Draft EIR/EIS should consider and present mitigation options specifically directed at resolving air quality impacts. Mitigation options are further discussed later in this analysis.

54-4

CEQA Section 15126.6(d) requires that "an EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project." The Draft EIR/EIS does not include a cost comparison for the transfer scenarios or mitigation options presented, although the IID transfer agreement limits total environmental mitigation spending. It is unclear that the alternative scenarios would be within IID's limited environmental mitigation funding parameters. An estimate of the environmental mitigation costs for each alternative scenario should be presented for the reviewer's consideration.

Response to Comment S4-1

Comment noted.

Response to Comment S4-2

Please refer to the Master Response on *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* in Section 3 of this Final EIR/EIS.

Response to Comment S4-3

Please refer to the Master Response on *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* in Section 3 of this Final EIR/EIS.

Response to Comment S4-4

The level of analysis of alternatives under CEQA is subject to a rule of reason. See *Laurel Heights Improvement Association v. Regents* (1988) 47 C3d 376, 406. CEQA does not require cost comparisons of the alternative projects or of various mitigation measures analyzed in an EIR. See *No SLO Transit, Inc. v. City of Long Beach* (1987) 197 Cal.App. 3d 241, 248 fn 3.

54-5

Responsibility for Mitigation. The proposed water transfer agreement appears to provide up to \$30 million for environmental mitigation for all media, including associated research and monitoring. Neither the Draft EIR/EIS nor the proposed water transfer agreement identifies how responsibility for environmental mitigation costs that exceed this amount will be apportioned. It is instructive to note that air pollution research and mitigation efforts at Owens Lake are estimated to have cost approximately \$300 million to date, excluding water costs. The projects included in this estimate mitigate an estimated 50 to 60 percent of the approximately 30 square miles that contribute to PM10 exceedences at Owens Lake.

54-6

Mitigation Options. IID should investigate mitigation options to reduce air quality impacts at the Salton Sea before the water transfer or associated reductions in the lake level take effect. Ideally, effective mitigation measures would be in place and available to implement immediately upon any lake level decrease. The United States Environmental Protection Agency has identified managed vegetation, shallow flooding, and gravel cover as best available control measures in its approval of the State Implementation Plan for Owens Lake. Other measures that were evaluated but rejected for use at Owens Lake, such as sand fences, could prove to be effective at the Salton Sea, and should also be considered. Emissions from Mono Lake are being reduced by increasing that lake's water level; options that would reduce the draw down from the Salton Sea or maintain the Sea at its current elevation should also be considered as potential measures to mitigate air pollutant emissions from the proposed transfer.

54-7

Baseline Elevation. The Draft EIR/EIS identifies the baseline elevation of the Salton Sea as 235 feet below sea level (-235), although the Salton Sea's current elevation is -227 to -228. The Draft EIR/EIS attributes the lake level difference to other processes expected to lower the Salton Sea elevation. No evidence is provided to substantiate the seven-foot difference in elevation, which is expected to expose an additional 16,000 acres of lakebed sediment. Using this uncertain future elevation as a baseline could over time present unclear accountability for mitigation of environmental impacts associated with the exposed lakebed. In addition, the transfer would likely expose lakebed at a much faster rate than the natural process, which could affect potential emissions. The Draft EIR/EIS should provide an annual estimation of lakebed exposure attributable to the IID transfer versus the exposure attributable to other processes.

54-8

Owens Lake Comparison. The air quality chapter of the Draft EIR/EIS includes a brief and incomplete comparison of the Salton Sea and Owens Lake. Soil and water chemistry, meteorology, and recession rates are cited as factors that might make the Salton Sea less prone to wind blown erosion than Owens Lake. The qualitative analysis provided in this section leads the reviewer to believe that the lakebed would not be a significant source of PM10. It is reasonable to assume that the exposed lakebed sediments would vary around the Salton Sea as they do around Owens Lake. It is also important to note that the potential area of lakebed exposed at the Salton Sea could be

Response to Comment S4-5

The \$30 million amount is not a minimum or a maximum level of required mitigation. The limits on mitigation expenditures establish contractual thresholds which allow the IID or SDCWA to cancel the IID/SDCWA water transfer. See the response to Comment G11-1. It is anticipated that the IID Board will evaluate anticipated mitigation costs and the commitments of other parties to fund portions of these costs at the time it considers whether to approve the Proposed Project.

Response to Comment S4-6

Please refer to the Master Response on *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* in Section 3 of this Final EIR/EIS.

Response to Comment S4-7

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 3 of this Final EIR/EIS.

Response to Comment S4-8

Please refer to the Master Response on *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* in Section 3 of this Final EIR/EIS.

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54-8

twice as large as the dry portion of Owens Lake, and that the exposed portion of the Salton Sea could cause exceedences of the federal air quality standards even if it emits only a fraction of the PM10 emitted at Owens Lake.

54-9

Impact of Water Quality. The Salton Sea has been fed by agricultural runoff, which can be expected to contain fertilizers and pesticides, as well as waste water from Mexico. The Draft EIR/EIS should address whether these contaminants might be a component in the emissions generated from the exposed Salton Sea lakebed.

54-10

General Conformity. The Clean Air Act mandates that any action requiring federal funding or approval must conform to the State Implementation Plan. At present, the State's air quality plan does not anticipate additional PM10 emissions that might occur as a result of the IID transfer. Additional PM10 exceedances resulting from the transfer will need to be mitigated to comply with general conformity requirements.

54-11

Environmental Justice. Adverse health impacts attributed to PM10 exposure include premature death in adults and infants (shortening lives by years), plus increased asthma and other respiratory illnesses. Increased PM10 emissions from the Salton Sea lakebed could impact low-income minority populations at and downwind of the Salton Sea, including Native American reservations near the Salton Sea and large Hispanic populations in Imperial County. Elevated PM10 exposure to these at-risk communities could raise environmental justice concerns, which should be addressed in the Draft EIR/EIS.

Response to Comment S4-9

Refer to the Master Responses on *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* and *Air Quality—Health Effects Associated with Dust Emissions* in Section 3 of this Final EIR/EIS.

Response to Comment S4-10

Please refer to the Master Response on *Air Quality—Applicability of General Conformity Requirements to the Proposed Project or Alternatives* in Section 3 of this Final EIR/EIS.

Response to Comment S4-11

In response to comments, the text of Section 3.15 has been revised. The changes are indicated in subsection 3.15 in Section 4.2, Text Revisions in this Final EIR/EIS.

**OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
SPECIFIC COMMENTS ON IID WATER TRANSFER
ENVIRONMENTAL ANALYSIS
Contact: Dr. Margy Gassel, (510) 622-3166**

54-12 [The Office of Environmental Health Hazard Assessment (OEHHA) has focused our review mainly on human health issues because the primary responsibility of OEHHA is to evaluate the risks from chemical contamination in the environment and protect human health (e.g., issue fish consumption advisories). This project has the potential to impact the existing fish consumption advisory issued by OEHHA for the Salton Sea.

54-13 [In our review, we did not find that human health issues were adequately addressed in the EIR. In particular, it is stated in the EIR that the project will result in increased discharge of selenium into the Salton Sea and other water bodies. Clearly, the increased discharge of selenium has the potential to adversely affect human health, as the concentrations of selenium that accumulate in fish will increase, and the toxicity of selenium can increase accordingly. This impact (of increased selenium in fish tissues) and other issues related to human health do not appear to be addressed in the EIR. In addition, there is not sufficient evidence or explanation of why certain activities were deemed to have no "significant" impact.

A few examples are provided here that relate to the section on recreation.

54-14 [1) The significance criteria for impacts (in Section 3.6.4.2 on page 3.6-12) are extremely limited in scope as they only pertain to recreational facilities and therefore suggest that recreational facilities are the only issue of concern. These criteria do not address the impacts on fisheries and other recreational uses of the Salton Sea and surrounding areas.

54-15 [2) It is stated on page 3.6-14 that impacts on water quality would not cause indirect impacts on recreation because the county does not "encourage" recreational use of the Alamo and New rivers. This conclusion does not address the real possibility that people do use these rivers, or the effects that reduced water quality in the rivers will in turn have on the Salton Sea.

54-16 [3) The claim that increased exposure of playa (as the Salton Sea recedes) is a potential beneficial effect for land-based recreation (e.g., on page 3.6-17, Impact R-6) is inadequate in that it skirts the real issues related to human health impacts - reduced air and water quality. As the water surface elevation decreases, the water quality of the remaining water will change as the concentration of chemicals in it changes. And there is a potential for increased wind-blown dust as more sediment is exposed.

Response to Comment S4-12

With the implementation of the Salton Sea Habitat Conservation Strategy, the mass loading of selenium to the Salton Sea would either remain the same as the Projected Baseline or decrease, depending on the source of the water used for mitigation. Therefore, the fish consumption advisory is not anticipated to be affected by the Proposed Project.

Additionally, the EPA and the Bureau of Reclamation propose to implement a selenium source reduction program on the Colorado River which would reduce the concentration of selenium in inflows to the Salton Sea.

Response to Comment S4-13

Although selenium concentrations in IID drains and in the Alamo and New rivers are expected to increase under the Proposed Project, selenium loadings to the Salton Sea are expected to decline because of reduced flows to the Sea. The proposed mitigation strategy for the Salton Sea compensates for these reductions in flow by introducing water to maintain Sea elevations at levels equal to or greater than those projected under the Project Baseline. An advantage of this mitigation strategy is that, although the sources of mitigation water are likely to vary, tilewater, with its high selenium concentrations, will not be one of the candidate sources. In addition, by maintaining water levels in the Sea, selenium exposed to anaerobic conditions under the Baseline would remain under anaerobic conditions under the Proposed Project, thus minimizing the likelihood that selenium, bound in sediment and organic matter under the Baseline, would be mobilized into the water column under the Proposed Project.

Therefore, concerns that selenium concentrations in the water column of the Salton Sea are likely to increase and that this increase would accelerate bioaccumulation in fish tissue do not appear to be well founded, particularly when the effects of the mitigation strategy are taken into account.

For additional information, please refer to the following Master Responses in Section 3 of this Final EIR/EIS: *Hydrology—Selenium Mitigation, Hydrology-Development of the Baseline, Biology—Timing of Implementation of Biological Mitigation Measures, and Hydrology—TMDLs.*

Response to Comment S4-14

The significance criteria used, were adapted from Appendix G of the CEQA Guidelines. The second criterion listed on p. 3.6-13 of the Draft EIR/EIS states:

"Implementation of the Proposed Project or its alternatives would result in significant impacts if they:

- Cause a direct, substantial physical degradation of either public recreation uses or public recreational facilities."

This criterion applies to sport fishing, camping, boating, etc., as each of these activities is considered to be a public recreation use. The impact to sport fishing opportunities at the Salton Sea was described in the Draft EIR/EIS in Impact R-8. However, as described in the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 3 of this Final EIR/EIS, impacts to the Salton Sea fishery as a result of the Proposed Project will be avoided. Thus, there will be no impact to sport fishing.

Response to Comment S4-15

The New River and the Alamo River are posted against public entry. Use of these water bodies for water contact recreation is prohibited for health and safety reasons. Although known to occur, public fishing in these water bodies is discouraged because the only access to the New and Alamo Rivers is by trespass across privately owned lands or by fishing from public roadway bridges, both of which are prohibited by state law.

Public fishing is allowed in the IID canal system and regulating reservoirs, and at Finney, Ramer, Sunbeam, and Weist Lakes. The California Department of Fish and Game stocks IID's reservoirs and the four lakes. Neither the Proposed Project nor any of the alternatives will impact legally permissible recreational activities in the IID Project area.

Response to Comment S4-16

Please refer to the Master Responses on *Biology—Approach to Salton Sea Habitat Conservation Strategy* and *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* in Section 3 of this Final EIR/EIS.

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The project, according to the EIR, would have serious environmental impacts, but many of these are not adequately addressed in the EIR. Furthermore, it is not clear that the proposed plans for mitigation are feasible or adequate to ameliorate the degradation that would be caused by the project. We agree with comments submitted by Phil Gruenberg of the Regional Water Quality Control Board that the EIR presents a limited scope of impacts, and fails to address the need to work cooperatively with other agencies in their efforts to address the Salton Sea and the associated environment.

Response to Comment S4-17

We believe the EIR/EIS is a good faith and reasonable effort to identify and assess the environmental impacts of the Project and feasible mitigation measures, based upon available information and assessment methods. Under CEQA, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors [Cal. Pub. Resources Code § 21061.1]. CEQA "does not demand what is not realistically possible, given the limitations of time, energy and funds" (*Concerned Citizens of South Central Los Angeles v. Los Angeles Unified School District* (1994) 24 Cal.App. 4th 826, 841). The final determination of feasibility must be made by the Lead Agencies after considering the Final EIR/EIS and other evidence in the record.

54-17



California Regional Water Quality Control Board
Colorado River Basin Region



Winston H. Hickox
 Secretary for
 Environmental
 Protection

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Gray Davis
 Governor



April 18, 2002

Mr. Elston Grubaugh, Chief Engineer
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Mr. Bruce D. Ellis
 Bureau of Reclamation
 Phoenix Area Office (PXAO-1500)
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SUBJECT: IMPERIAL IRRIGATION DISTRICT WATER CONSERVATION AND
 TRANSFER PROJECT DRAFT HABITAT CONSERVATION PLAN, DRAFT
 ENVIRONMENTAL IMPACT REPORT / ENVIRONMENTAL IMPACT
 STATEMENT

65-1 [Thank you for providing us the opportunity to comment on the subject document. We do not
 oppose the water transfer itself, but the subject EIR/EIS as now written is incomplete regarding
 consideration and mitigation of water quality impacts.

65-2 [We have prepared our comments in a table-format. In addition to these comments, the
 numbering system for chapters and pages is very confusing (e.g., chapters titled 3.0 and 3.1,
 and corresponding page numbers titled 3.0-1 and 3.1-1). Appendices are not labeled as such,
 and page numbers are the same for the main report as for some appendices (e.g., the main
 report and Appendix C—Habitat Conservation Plan both have pages called ES-1, ES-2, etc.).

65-3 [Enclosed are copies of the other Regional Board documents that we reference in our
 comments. Should you have any questions, or would like to meet to resolve or discuss our
 concerns, please contact me at (760) 776-8932 or Teresa Newkirk at (760) 776-8931.

Sincerely,

JOSE ANGEL, P.E.
 Chief of Basin Planning Division

ts:jl

Attachments

cc: State Clearinghouse, Sacramento
 Ms. Celeste Cantu, SWRCB, Sacramento
 Mr. Ricardo Martinez, CalEPA, Sacramento
 Ms. Eugenia McNaughton, USEPA, San Francisco
 Mr. Tom Peltier, SWRCB, DWR, Sacramento

File: IID Water Transfer

**Letter - S5. California Regional Water Quality
 Control Board. Signatory - Jose Angel, P.E.**

Response to Comment S5-1

Comment noted. Responses to the individual concerns enumerated in
 the comment letter are provided.

Response to Comment S5-2

Comment noted. We regret that you found the numbering system
 confusing. The Table of Contents was intended to provided a guide to
 the document.

Response to Comment S5-3

Comment noted.

Response to Comment S5-4

Comment noted.

**CRWQCB--CRDR Comments Regarding
Imperial Irrigation District Water Conservation and Transfer Project
Draft Habitat Conservation Plan,
Draft Environmental Impact Report/Environmental Impact Statement**

Comment	Page	Paragraph ¹	Comment
05-4		1.	<p>General:</p> <p>The California Regional Water Quality Control Board, Colorado River Basin Region (Regional Board) is charged by the Division 7 of the California Water Code (Porter-Cologne Water Quality Control Act) with establishing and enforcing water quality standards (WQS) for all waters within its region. The WQS consist of beneficial uses for the waters, water quality objectives to protect those uses, and other water quality control policies (e.g., State Antidegradation Policy, SWRCB Resolution 68-16). These standards also are approved by the State Board. For surface waters of the Nation, the WQS also are approved by the United States Environmental Protection Agency (USEPA). The USEPA has delegated to the State of California authority to implement and enforce the water quality control requirements prescribed in the Federal Water Pollution Control Act (a.k.a. the Clean Water Act, 33 U.S.C. 1251 et seq.) for surface waters of the nation. The Salton Sea, Alamo River, New River, and Imperial Irrigation District agricultural drains are State waters and waters of the United States.</p> <p>The WQS for the waters of the Region, including all surface waters within the Salton Sea Watershed, are contained in the Regional Board's Water Quality Control Plan for the Colorado River Basin Region (Basin Plan) (CRWQCB--CRDR 1994). A copy of the Basin Plan is online at www.swrcb.ca.gov/wqcb/. Other relevant water quality criteria within the context of this Proposed Project is contained in the State Board's <u>Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California</u> (Policy for KRWEDE).</p> <p>The Colorado River Basin Region's Basin Plan is codified in Title 23, California Code of Regulations (CCR), Section 3960 et seq. The process for adopting and/or amending WQS is the Basin Planning process—a process subject to the requirements that CEQA establishes for Certified Regulatory Programs (i.e., Basin Plan amendments are CEQA Projects, unless otherwise explicitly exempted) (Pub. Resources Code, § 21000 et seq; 14 CCR 15251 et seq.) As described in detail in the following comments, the Proposed Project is in direct conflict with the WQS established by the Basin Plan.</p> <p>CWA § 303(d) requires the Regional Board to: (1) identify the Region's waters that do not comply with water quality standards applicable to such waters, (2) rank the impaired water bodies taking into account factors including the severity of pollution and the uses made of such waters, and (3) establish Total Maximum Daily Loads (TMDLs) for those pollutants causing the impairments to ensure that impaired waters attain their beneficial</p>

¹ Paragraph #1 starts at the top of a page, whether or not it was a full paragraph. Each bulleted section is considered a paragraph when separated by blank lines.
² The Imperial Irrigation District (IID) requested on several different occasions (e.g., 1998, 1999 and 2001) to downgrade the WQS for surface waters in Imperial County. For technical and legal reasons, the Regional Board denied the IID request (see copies of attached Regional Board letters responding to request).