

2001 303(d) List

Alamo River	723.10	52 miles	Basin Plan Objectives violated, recreational impacts	Silt	Imperial Valley Agricultural return flows	High	Started 1998, completed 2001
			Elevated fish tissue levels, toxic bioassay results	Pesticides ⁴	Imperial Valley Agricultural return flows	High	Start 2005, complete 2011
Imperial Valley Drains	723.10	1,305 miles	Elevated fish tissue levels	Selenium ³	Imperial Valley Agricultural return flows	High	Start 2005, complete 2010
			Basin Plan Objectives violated, recreational impacts	Silt	Imperial Valley Agricultural return flows	High	Start 2001, complete 2004
Salton Sea	728.00	220,000 acres	Elevated fish tissue levels	Selenium ³	Agricultural return flows	Medium	Start 2005, complete 2010
			Basin Plan Objectives violated, recreational impacts	Nutrients	Imperial Valley Agricultural return flows, NPDES Wastewater Plants, Mexico	High	Start 2001, complete 2004

TOT 303(d) List

Palo Verde Outfall Drain	715-40	16 miles	Basin Plan Objectives violated, public health hazard	Pathogens	Unknown	Medium	Start 2001, complete 2003
Coachella Valley storm water channel	719-47	20 miles	Basin Plan Objectives violated, threat of toxic bioassay results	Pathogens	Unknown	Low	Start 2002, complete 2005

- 1- This is not a commitment to complete work. The commitments are made in fund source specific workplans.
- 2- Current Regional Board's monitoring data for the New River at the International Boundary shows that VOCs are routinely present in the New River immediately downstream from the International Boundary with Mexico, at concentrations that violate Basin Plan objectives. However, data collected by USBOR near the New River-Sallon Sea Delta in 1999 and briefly presented at the January 13-14, 2000 Salton Sea Symposium found that VOCs in the New River not to be of major concern. Therefore, it is believed that the VOC impairment may not affect the 60-mile stretch of the New River in the USA. Additional data is necessary to characterize the impacted river segment.
- 3- Selenium originates from upper portion of the Colorado River and is delivered to the Imperial Valley via irrigation water. Selenium will likely be addressed via a federal TMDL for the entire Colorado River Watershed.
- 4- May be effectively addressed by Silt TMDL, thus not requiring new TMDL development.
- 5- TMDL development will not be effective in addressing this problem, which will require an engineered solution with federal, state, and local cooperation.



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Office of Chief Counsel

901 P Street, Sacramento, California 95814 • (916) 657-2154
Mailing Address: P.O. Box 100 Sacramento, California 95812-0100
FAX (916) 653-0428 • Internet Address: <http://www.swrcb.ca.gov>



Gray Davis
Governor

Letter - S5

Page 56

Response to Comment S5-83

Comment noted.

July 11, 2000

CERTIFIED MAIL

Mr. William E. Hvidsten
De Cuir & Somach
400 Capitol Mall, Suite 1900
Sacramento, CA 958 14-4407

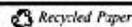
Dear Mr. Hvidsten:

REQUEST FOR REDESIGNATION OF BENEFICIAL USES FOR IMPERIAL VALLEY WATERS

Mr. Phil Gruenberg has requested I respond on his behalf to your letter dated May 20, 2000. Your letter, submitted on behalf of the Imperial Irrigation District (IID), requests that the Colorado River Basin Regional Water Quality Control Board (Regional Board) "re-designate" and "re-define" beneficial uses for the New and Alamo Rivers without performing a use attainability analysis. In its request, the IID objects to the definition of recreational (REC-1 and REC-2), freshwater replenishment (FRSH), and warm freshwater habitat (WARM) beneficial uses for the New River, Alamo River, and Imperial Valley drains contained in the *California Regional Water Quality Control Plan for the Colorado River Basin Region* (Basin Plan).

The Basin Plan designates the beneficial uses for all the waters of the region (surface and ground waters) and establishes the water quality objectives to protect those uses. The Regional Board adopted its Basin Plan pursuant to the water quality planning provisions of the California Water Code section 13240, et seq. The Basin Plans and Basin Plan revisions thereof are then subject to the approval of the State Water Resources Control Board (State Board) Water Code section 13245. The Imperial Valley drains and the Alamo and New Rivers are surface waters of the United States, in part, because their waters are used for interstate and foreign commerce and because they are tributary to navigable waters (40 C.F.R. § 110, et seq.). The Federal Water Pollution Control Act (a.k.a. the Clean Water Act; U.S.C. § 1251, et seq.) and Title 40 of the Code of Federal Regulations contain the legal and regulatory criteria regarding water quality standards for surface waters of the United States (40 C.F.R., Part 13 1, et seq.). Because the Basin Plan establishes water quality standards for surface waters pursuant to federal law, changes in those standards are also ultimately subject to the review and approval of the United States Environmental Protection Agency (USEPA).

California Environmental Protection Agency



S5-83

Mr. William E. Hvidsten

- 2 -

July 11, 2000

The Regional Board recognizes recreational, freshwater replenishment, and warm freshwater habitat as actual uses which are likely to continue in the New River, Alamo River and Imperial Valley drains. These designated uses for the New River, Alamo River, and Imperial Valley drains are contained in the Basin Plan as existing uses. Existing uses, defined by Title 40 of the United States Code of Federal Regulations (40 C.F.R.), Subchapter D, Part 13 1.3(e), are those uses actually attained in a water body on or after November 28, 1975, whether or not they are included in the water quality standards. 40 CFR requires that existing uses be designated. Unless a more stringent use is established in lieu of the designated use, 40 CFR prohibits the removal of or dedesignation of an existing use.

In addition, Title 40 authorizes dedesignation and partial dedesignation of a use only if the use is a potential use and the state demonstrates that attaining the use is not feasible for one of the reasons contained in 40 CFR § 13 1.1 O(g). If a potential use, however, will be attained by the implementation of technology based effluent limits for point sources of pollution and implementation of BMPs to control non point sources of pollution, the use may not be removed (40 C.F.R., Part 131.10(d)). Even if the beneficial uses you discuss were potential uses and not existing uses, consideration of dedesignation is premature and would require a use attainability analysis.

At this time, the implementation of cost-effective and reasonable best management practices (BMPs) for nonpoint source control have not been implemented for the New River, Alamo River or Imperial Valley agricultural drains to achieve and protect the beneficial uses of these waters. As IID is aware, the Regional Board is currently preparing a Total Daily Maximum Daily Load (TMDL) and implementation program for the Alamo River. The program will propose many BMPs for silt in the Alamo River and the agricultural drains that are tributary to the Alamo. TMDL and implementation programs will be prepared in the future for other impaired water bodies in the region including the New River. After the implementation of limits and controls, if a potential use cannot be attained, the federal regulations provide for beneficial use modification. However, the state must demonstrate infeasibility and a Use Attainability Analysis is required prior to modification of any instream uses (e.g. recreational uses and habitat) (40 C.F.R., Part 131.10(j)).

IID argues in its request that no use attainability analysis is required. IID argues that it simply requests that the Board "redefine" or "redesignate" the definition of the beneficial uses. Although IID chooses not to use the terms "removing a beneficial use", the practical result of IID's request would be to limit or remove part of the existing beneficial uses. Removal or dedesignation of an existing use is clearly prohibited.

The Regional Board hopes that IID will continue to work with the Regional Board to address the severe impairments for the New River, Alamo River and Imperial Valley drains via the Total Maximum Load Process-a process that provides for the development of appropriate targets and pollutant load allocations for those waters.

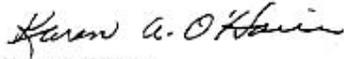
Mr. William E. Hvidsten

- 3 -

July 11, 2000

If you have any questions about this matter, please call me at (916) 657-2088.

Sincerely,



Karen A. O'Haire
Senior Staff Counsel

cc: Colorado River Basin RWQCB Members
Mr. Phil Gruenberg, CRBRWQCB
Mr. Jose Angel, CRBRWQCB
Mr. Stan Martinson, DWQ, SWRCB, Sacramento
Ms. Felicia Marcus, USEPA, Region IX, San Francisco
Ms. Alexis Strauss, USEPA, Region IX, San Francisco
Mr. Terry Oda, USEPA, Region IX, San Francisco
Ms. Eugenia McNaughton, USEPA, Region IX, San Francisco
Mr. Jesse Silva, IID, Imperial
Mr. Brad Luckey, IID, Imperial

bc: Sheila Vassey, OCC
John Mattox, OCC

KOHaire/mkschmidgall
07-03-00 / revised 07-11-00
r'schmm2koh/imperial_valley_waters.doc

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

RESOLUTION NO. 01-205

A RESOLUTION APPROVING THE 2001 303(D) LIST OF IMPAIRED WATER BODIES
FOR THE
COLORADO RIVER BASIN REGION

Letter - S5
Page 59

Response to Comment S5-84

Comment noted.

WHEREAS, the California Regional Water Quality Control Board, Colorado River Basin Region (hereinafter Regional Board), finds that:

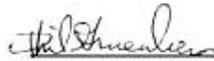
1. Section 303(d) of the Clean Water Act requires each state to develop a 303(d) List, which identifies and prioritizes water bodies that do not attain water quality standards after implementation of point source best available technology (BAT) controls and best management practices (BMPs).
2. The 303(d) List is reviewed and updated by the Regional Board as necessary (typically every three years), subject to the approval of the State Board and the United States Environmental Protection Agency (USEPA).
3. On January 8, 1998, the Colorado River Basin Regional Board approved the 303(d) List. The 1998 303(d) List was also approved by the State Board and the USEPA the same year.
4. On February 28, 2001, Regional Board staff solicited information from the public for updating its 303(d) List.
5. On August 16, 2001, Regional Board staff distributed the draft updated 303(d) List by mail to interested parties.
6. On August 20, 2001, Regional Board staff mailed a Notice of Public Hearing to be published in six local newspapers.
7. On August 21, 2001, Regional Board staff requested the Postmaster to post the Notice of Public Hearing in six post offices of interested cities and communities.
8. Regional Board staff has reviewed data and comments from affected stakeholders, data collected by staff and other agencies, and applicable water quality standards in developing a proposed updated 303(d) List.
9. The 2001 303(d) List of impaired water bodies for the Colorado River Basin Region contains the same six water bodies previously listed in the 1998 303(d) List with some changes, so that the updated list:
 - a. Identifies specific volatile organic compounds (VOCs) as impairing the New River. The VOCs are attributable to discharges of wastes from Mexico;
 - b. Removes the pollutant "nutrients" as impairing the New River;
 - c. Adds trash from Mexico as a pollutant impairing the New River;

- d. Adds dissolved organic matter as another pollutant impairing the New River, with dissolved oxygen being the stressor indicator parameter.
 - e. Changes "bacteria" to "pathogens" as a pollutant impairing the Palo Verde Outfall Drain, the New River, and the Coachella Valley Stormwater Channel; and
 - f. Modifies the time schedule for TMDL development.
10. A public hearing was conducted on October 10, 2001 for the purpose of approving the updated 2001 303(d) List.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Regional Board herewith approves the updated 2001 303(d) List for the Colorado River Basin Region as shown in Attachment "Three" of the "Staff Report on the Proposed Update of Clean Water Act 303(d) List of Impaired Water Bodies Within the Colorado River Basin Region", and as required by the Federal Clean Water Act.
2. The Executive Officer is directed to forward copies of the approved 2001 303(d) List for the Colorado River Basin Region, its supporting documentation, and this Resolution to the State Board.

I, Phil Gruenberg, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on October 10, 2001.



PHIL GRUENBERG
Executive Officer



State of California - The Resources Agency

DEPARTMENT OF FISH AND GAME

http://www.dfg.ca.gov

Eastern Sierra-Inland Deserts Region
330 Golden Shore, Suite 210
Long Beach, California 90802

GRAY DAVIS, Governor



April 26, 2002



**Letter - S6. Department of Fish and Game.
Signatory - Curt Taucher.**

Response to Comment S6-1

Comment noted.

Response to Comment S6-2

Comment noted.

Mr. Elston Grubaugh
Manager of Resources, Management, and Planning Department
Imperial Irrigation District
P.O. Box 937
Imperial, CA 92251

Dear Mr. Grubaugh:

Comments on the
Draft Environmental Impact Report/Environmental Impact Statement
Imperial Irrigation District Conservation and Transfer Project and
Draft Habitat Conservation Plan SCH # 99091142

The California Department of Fish and Game (Department) has reviewed the Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS) for the Imperial Irrigation District Conservation and Transfer Project and Draft Habitat Conservation Plan (Proposed Project) and is providing comments on fish and wildlife resources that may be affected by the Proposed Project. The Imperial Irrigation District (IID) is proposing to conserve and transfer up to 300,000 acre-feet per year (KAFY) of Colorado River water. The conserved water would be transferred by IID to San Diego County Water Authority (SDCWA), Coachella Valley Water District (CVWD), and/or Metropolitan Water District (MWD). These transfers will remain in effect for 75 years. Water conservation will be achieved through a combination of on-farm system improvements, improvements by IID to its water delivery system, and/or fallowing. Water delivery will occur through existing water conveyance systems, although the point of diversion from the Colorado River will change. The Proposed Project also includes implementation of a Habitat Conservation Plan (HCP) to address impacts to covered species and habitats within the IID water service area, the right-of-way of the All American Canal (AAC), and the Salton Sea. The Department encourages IID to continue to investigate various fallowing options in conjunction with other mitigation measures, which have already been discussed.

The Department is reviewing this document as a Trustee Agency and as a Responsible Agency with jurisdiction over the conservation, protection and management of fish, wildlife, native plants, and habitat necessary for biologically

Conserving California's Wildlife Since 1870



Mr. Elston Grubaugh
April 26, 2002
Page Two

sustainable populations of those species. In those capacities, the Department will provide comments on the following issues:

- Biological Resources – Impacts to fish at the Salton Sea;
- Effects to Species along the Lower Colorado River (LCR) from increased salinity and selenium;
- Mitigation in the Draft EIR/EIS is inadequate to mitigate impacts to listed species and Species of Special Concern to a level of less than significant;
- The Department believes there will be significant, yet mitigable impacts to the Salton Sea sportfishery

The Department provides the following specific comments on the Draft EIR/EIS for the Proposed Project:

2.2 Proposed Project

California Environmental Quality Act (CEQA) Guidelines, Section 15378, defines "Project" to mean the whole of the action that may result in either a direct or reasonably foreseeable indirect change in the environment. In considering whether an activity is a "project", an agency must look at all of the parts, components, and phases of the activity. The Department recommends that the project description include the conservation of water in the IID Service Area, the diversion of IID's conserved water, and the subsequent delivery to MWD, CVWD, and SDCWA Service Area as components of the Proposed Project. As drafted, it is unclear whether those components are intended to be included as part of the overall transfer.

2.2.6.5 Duration of the HCP

There is no statute which allows the Department to provide assurances that no additional mitigation will be required in the event an unlisted species covered by an incidental take permit becomes listed.

2.3.2.1 Alternative 1: No Project

The Department suggests adding two bullets to the list titled "Conditions Affecting the LCR, IID Water Service Area, and Salton Sea":

- Detrimental effects will occur to State- and federally-listed and non-listed species, including species of special concern (e.g. desert pupfish, black skimmers, white pelicans, and brown pelicans).
- Biological conditions at the Salton Sea will change, such that key invertebrates and fish that maintain a sportfishery and provide forage for piscivorous and non-piscivorous birds will be eliminated.

Response to Comment S6-3

The components of the Proposed Project do include the conservation of water in the IID water service area, the diversion of IID's conserved water, and the subsequent delivery of the conserved water to SDCWA, MWD, and/or CVWD. These components are clearly listed in Section 2.2 of the Draft EIR/EIS.

Response to Comment S6-4

The sentence in question has been removed from the text of Section 2.2.6.5 in the Draft EIR/EIS. This change is indicated in this Final EIR/EIS in subsection 2.2.6.5 under Section 4.2, Text Revisions.

Response to Comment S6-5

The Draft EIR/EIS has been revised according to the suggestion in the comment. This change is indicated in this Final EIR/EIS in subsection 2.3.2.1 under Section 4.2, Text Revisions.

Mr. Elston Grubaugh
April 26, 2002
Page Three

3.0 Development of the Baseline

The Department recommends that the Draft EIR/EIS clarify its discussion regarding the distinction between the existing environmental setting and what is likely to occur under the "no-project" alternative.

3.2 Biological Resources

Table 3.2-1, BR-45

The Department disagrees that the impact would be less than significant from the effect of increased salinity reducing fish resources in the Salton Sea. Fish resources in the Salton Sea provide a forage base for piscivorous birds and a high quality sportfishery. Increased salinity from the Proposed Project and alternatives 2, 3, and 4 will hasten the loss of these fish resources by five to nineteen years. The mechanism for reducing the impact to less than significant that is feasible for these alternatives requires a hatchery for orangemouth corvina. The Department recommends the table be changed to reflect these comments.

3.2.3.1 Lower Colorado River

The Department requests a more thorough discussion and analysis of the extent (delineated acreage, spatial and temporal use and distribution) of currently utilized habitats (breeding, foraging, migratory, etc.) for each of the Special Status Species listed in Table 3.2-5. The Department has additional documented reports and records of all Special Status Species and will provide them to assist in the more detailed discussion and analysis. Furthermore, the Department requests that species information in the Lower Colorado River Draft Multi-Species Conservation Plan (LCR MSCP) be utilized to facilitate this analysis.

The change in points of diversion (less water traveling between Parker and Imperial Dams) will cause a drop in ground water levels. It is unclear from the Draft EIR/DEIS how this drop in ground water will affect the quality and extent of currently utilized riparian and wetland habitats, defined by plant species composition and vegetation structure, for the Special Status Species listed in Table 3.2-5. The Department recommends the document address habitat modification resulting from drops in ground water elevations, specifically as it relates to micro-site habitat modification and effects to habitat suitability and availability for each of the Special Status Species listed on Table 3.2-5.

3.2.3.2 IID Water Service Area, AAC and Salton Sea Drainage System

The Department asks for clarification as to whether biological controls are a currently used method for controlling vegetation in drains. If they are currently used or anticipated for future use and IID wants this type of activity covered in a California Endangered Species Act (CESA) permit issued by the Department, then it needs to be discussed further in this document. No other references to this type of activity can be found in the document.

Response to Comment S6-6

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

Response to Comment S6-7

Please refer to the Master Response on *Biology—Impact Determination for Fish in the Salton Sea and Recreation—Mitigation for Salton Sea Sport Fishery* in Section 3 of this Final EIR/EIS.

Response to Comment S6-8

Habitat and species utilization are described in Section 3.2.3.1 of the Draft EIR/EIS. It is not necessary for the impact analysis to further delineate the acreage, spatial and temporal use and distribution of currently utilized habitats for each of the Special Status Species listed on Table 3.2-5. Additional discussion is provided below as requested, however. This information is provided as clarification only and does not change the conclusions of the impact analysis, which indicates that impacts to such species are potentially significant. Mitigation measures were included in the Draft EIR/EIS to reduce this potentially significant impact to less than significant. The information provided below demonstrates how the mitigation proposed addresses several different species.

Arizona Bell's vireo - Along the Lower Colorado River, this subspecies is closely associated with early-successional cottonwood-willow habitat. The MSCP (SAIC 2001) identifies the creation and enhancement of healthy riparian stands of cottonwood-willow habitat as a management priority for this species. This is also the goal of the mitigation measures identified in the Draft EIR/EIS.

California black rail - Key habitat components for this species include shallow water, with a preference for saturated versus inundated soil conditions, and high stem density (Rosenberg et al. 1991, Flores and Eddleman 1995 in MSCP 2001). Consideration of these habitat variables can be incorporated into the design of the proposed mitigation of creating backwater/marsh habitat, thus benefiting this species. The MSCP (SAIC 2001) identifies the enhancement of existing rail habitat and the creation of new shallow-water wetlands as a management priority.