

Mr. Elston Grubaugh
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3.3.3 Approach for Mitigating Impacts of Reduced Fish Abundance

It has been agreed that more detail will be provided to Approach 1 (Hatchery and Habitat Replacement), specifically on the phasing of various operational aspects of the hatchery and ponds, the source of water for the ponds, site locality for the ponds, and the amount of fish and species to be stocked in both the Salton Sea and the forage ponds.

56-32

In the same subsection, Pages 3-24 and 3-25, please change the wording in the last sentence of the first paragraph on the former page and the last sentence of the second paragraph on the latter page to reflect that both the hatchery and pond operation would continue until a restoration program for the Salton Sea reduced salinity in the Sea to the point at which successful natural reproduction of the existing fish species could once again occur.

3.3.4 Other Salton Sea Mitigation Measures

In regards to Salton Sea - 1 mitigation measure, it has been agreed that wording will be added that commits IID to maintaining water quality in the connection areas for desert pupfish, specifically selenium concentrations, flow, and whatever other conditions are determined by the HCP Implementation Team (HCP IT) to be conducive to the continued existence of desert pupfish in these areas. In addition, please add wording that indicates that IID will maintain these connections in all desert pupfish drains that lead to the Salton Sea, within both the IID and CVWD service areas.

56-33

3.5.3 Approach and Biological Goals

It has been agreed that the biological goals and objectives for the drain habitat conservation strategy will be modified to delete "relative abundance" from the goal statement and to delete "focusing on Yuma clapper rail as a flagship species" from the objectives. In that manner the goal is to provide habitat for all proposed covered species using the drains.

56-34

3.7.2 Desert Pupfish

It has been agreed that Pupfish-4 mitigation measure will be modified to reflect the initial need for the HCP IT to help identify the most reliable method for determining the presence of desert pupfish in irrigation drains.

56-35

Monitoring and Adaptive Management

4.1.1.1 to 4.1.1.3 Salton Sea Compliance Monitoring

It has been agreed that Approach 1, will be modified to reflect the most recent consensus reached by IID with the Department regarding the specifics of these

56-36

Response to Comment S6-32

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy*.

Response to Comment S6-33

IID has agreed to minimize the effects of water conservation on water quality in the drains that support pupfish (see measure Pupfish - 2 in the HCP). If it is determined that selenium concentrations in certain drains adversely affect pupfish, IID would operate and maintain those drains in a manner that minimizes the effects of selenium. Because any future channels constructed to maintain connectivity among drains would use the same water, the benefit of IID's modified management of the pupfish drains would extend to the connecting channels as well. The HCP (Salton Sea - 1) has been revised to reflect the obligation to provide drain connections at both the north and south shores of the Salton Sea.

Response to Comment S6-34

The HCP text has been modified to delete "relative abundance" from the goal statement, and the reference to the Yuma clapper rail as a flagship species has been deleted from the objectives.

Response to Comment S6-35

The identified revisions have been made in the HCP.

Response to Comment S6-36

The identified revisions have been made in the HCP. Also, see the Master Response for *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 3 of this Final EIR/EIS.

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56-36 mitigation measures. This modification needs to include the rationale for timing of construction of the hatchery and ponds, source and amount of water to maintain ponds, number of acres of ponds to be created, fish species to be produced, and amount (numbers/weight) of fish to be planted each year.

56-37 Under Approach 2 (Use of Conserved Water as Mitigation), the Department requests that compliance be tied to an amount of water (acre-feet), equivalent to drain water or better from a salinity standpoint, over a period of years that will be provided to the Sea and will compensate for the impacts of a fallowing program on the Salton Sea.

56-38 It has been agreed that the subsection on Desert Pupfish Connectivity will be modified to reflect that IID will maintain this connectivity of the drains around the entire Salton Sea, which also includes drains in CVWD's service area.

56-39 It has been agreed that the subsection on Nesting/Roosting Islands will be changed to indicate that various actions will be considered by the HCP IT and recommended actions implemented by IID to protect Mullet Island rookeries for gull-billed terns, black skimmers, and double-crested cormorants from predators as the Salton Sea level drops. These actions will be implemented prior to the ability of predators to access Mullet Island from the mainland.

56-40 4.1.2 Effectiveness Monitoring

The first paragraph, first sentence under Approach 1, will be modified as agreed to indicate that ponds would need to be constructed and in operation by the time that the HCP IT determined that further stocking was infeasible.

56-41 Under Approach 2 (Use of Conserved Water as Mitigation, Page 4-3), the Department asks that effectiveness of adding water to the Salton Sea be measured by an annual comparison of the actual salinity to the projected salinity (Salton Sea Hydrologic Model) for a set period of years or until all of the four sportfish species are no longer able to survive in the Salton Sea and provide a forage base for piscivorous birds. IID's commitment to add water to the Salton Sea will terminate based on whichever of the two measurements above are reached first.

56-42 4.1.3 Adaptive Management Program

The Department asks that under Approach 1, Hatchery and Habitat Replacement, wording be added to say that the HCP IT will determine measures to monitor and evaluate the effectiveness of the stocked ponds in feeding piscivorous birds. In addition, the Department requests that criteria be established that signals the termination of IID's funding of a hatchery and ponds, in the event that a Salton Sea

Response to Comment S6-37

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy*.

Response to Comment S6-38

The text has been revised in accordance with the comment.

Response to Comment S6-39

Since the release of the Draft EIR/EIS, IID has eliminated HCP Approach 1 from further consideration. Refer to the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 3 of this Final EIR/EIS.

The revised Salton Sea Habitat Conservation Strategy would avoid accelerating exposure of nesting/roosting features and changes in fish abundance.

Response to Comment S6-40

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy* in this Final EIR/EIS.

Response to Comment S6-41

The amount of water supplied to the Salton Sea would be based on an annual calculation that includes salinity, and the duration that water would be provided to the Sea was based on fish needs. The HCP has been revised accordingly (see Attachment A to the present document).

Response to Comment S6-42

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy*.

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56-42 Restoration Program is funded, implemented, and has become effective in lowering the salinity of the Sea to a level at which fish could once again reproduce naturally in the Sea.

56-43 4.3.1 Drain Habitat Baseline Covered Species Surveys

It has been agreed that this subsection will be modified to indicate that surveys for covered species will be conducted in the drains in years 7 and 12, following the issuance of the appropriate permits.

56-44 4.3.2 Compliance Monitoring

It has been agreed that this subsection will be modified to indicate that IID has committed to creating between 190 and 652 acres of managed marsh habitat, dependent upon the results of the baseline surveys and the approval of the Department and the USFWS of HCP IT recommendations. Furthermore, success criteria will be developed by the HCP IT for creation of the managed marsh that considers survival of plantings, vegetation density, and structural characteristics at specific time periods.

56-45 4.3.3 Effectiveness Monitoring

It has been agreed that the biological goals and objectives of this subsection on drain effectiveness monitoring will be changed as agreed, to reflect the same comments that this letter makes on the goals and objectives for Subsection 3.5.3, previously.

56-46 It has been agreed that a discussion will be added of the various information that the HCP IT will consider when determining the effectiveness of this created and managed marsh for covered species. The information should include: 1) the occurrence of covered species in the drains as determined by the baseline surveys of the drains and the managed marsh; 2) the relative abundance of covered species in the drains as determined by the baseline surveys of both drains and managed marsh; 3) comparison of the number of consecutive years individual species are reported in surveys of both the managed marsh and the drains; 4) a comparison of the presence, relative abundance, and seasonal use by covered species of this managed marsh with that on the State and Federal refuges within the Imperial Valley and; 5) the trends of local (Imperial Valley) and regional populations of covered species.

56-47 It has been agreed that a subsection will be added that commits the HCP IT to developing a management plan for the marsh. Examples will be included in this document of the types of management actions that IID is willing to implement at the marsh and those that would be considered outside the purview of IID.

Response to Comment S6-43

The HCP text has been modified to indicate that surveys will be conducted in the drains in years 7 and 12 following the issuance of the appropriate permits.

Response to Comment S6-44

The HCP text has been modified to indicate the commitment by IID to create between 190 and 652 acres of managed marsh habitat. Text has been added specifying that success criteria for vegetation development and the frequency and techniques for monitoring vegetation will be developed. (See the revised HCP in Attachment A of the present document.) Typically, success criteria for habitat creation projects consist of survival of plantings, vegetation density and structural characteristics at specified time periods.

Response to Comment S6-45

Similar to the response to Comment S6-43, the HCP text has been modified to delete "relative abundance" from the goal statement and reference to the Yuma clapper rail as a flagship species from the objectives.

Response to Comment S6-46

Text has been added indicating that the HCP Implementation Team will annually review results of covered species surveys and assess the effectiveness of the managed marsh in meeting the biological goal of the Drain Habitat Conservation Strategy. In evaluating the effectiveness of the managed marsh and as a basis for determining whether management adjustments are appropriate, the HCP IT will consider the following:

- The occurrence of covered species in the drains as determined by the baseline surveys of the drains and the managed marsh
- The relative abundance of covered species in the drains as determined by the baseline surveys of both the drains and the managed marsh
- The seasons when covered species use the drains as determined

Response to Comment S6-46 (continued)

- by the baseline surveys of the drains and managed marsh as an indicator of life history functions
- The number of consecutive years individual species were reported in the drains as determined by the baseline surveys of the drains and the managed marsh (i.e., consistency of occurrence)
- The presence, relative abundance and seasonal use of covered species on managed marshes of the state and federal refuges, if available
- The trends of local (Imperial Valley) and regional populations of covered species, if available

Based on this information, the HCP IT will recommend and IID will implement adjustments in the management of the managed marsh as necessary to meet the goals and objectives of the Drain Habitat Conservation Strategy.

Response to Comment S6-47

Text has been added to Section 4.3.4, the Adaptive Management Program indicating that the HCP IT will develop a management plan for the marsh in conjunction with the habitat creation plans. As described under Section 4.3.3, Effectiveness Monitoring, the HCP IT will annually review results of vegetation monitoring and covered species surveys of the managed marsh and other relevant information. Based on its review and assessment of the available information, the HCP IT may recommend management actions or changes in management practices to achieve the goal of the Drain Habitat Conservation Strategy. Over the term of the permit, the HCP IT may recommend management actions that are outside the scope of the management actions identified and defined in the site-specific habitat management plans. Examples of actions that IID could take in adjusting management are provided, as well as examples of actions that are outside the purview of IID.

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4.6.2 Desert Pupfish, Effectiveness Monitoring

It has been agreed that a subsection will be added that, upon the establishment of survey protocols for desert pupfish by the HCP IT, the IID will monitor desert pupfish presence in each of the initially-identified desert pupfish drains for five consecutive years to establish patterns of use. Furthermore, desert pupfish monitoring will be conducted every five years thereafter, for the life of the permit. IID will also monitor selenium concentrations in the desert pupfish drains annually, until the HCP IT determines, from studies being conducted by other agencies or from HCP IT-funded work, the effects of selenium on desert pupfish. Discussions also will be added concerning the monitoring of actions that might be recommended by the HCP IT and implemented by the IID for alleviating the detrimental effects of increased selenium in the desert pupfish drains. In addition, the HCP IT will develop a program to monitor the effectiveness of changes in drain maintenance activities that have been instituted to alleviate the effect of these activities on desert pupfish.

4.6.3 Adaptive Management

It has been agreed that a discussion will be added on how the HCP IT will address adaptive management in regard to monitoring of adjustments made in the desert pupfish drains as a result of attempts to lower selenium concentration levels and actions taken to modify drain maintenance activities.

Plan Implementation Costs and Funding

The Department recommends that a subsection be written after 5.1.1 on Page 5-1 that identifies the Department's roles and responsibilities.

5.5.1 The No Surprises Rule

Because the Department has no provision for a "No Surprises Rule", we request that the reference in this section that says that such a rule restricts the authority of the Department to require additional mitigation measures from IID to provide for the conservation of the covered species, be stricken from the document.

5.5.2 Changed Circumstances

The Department suggests that an additional area be added under this subsection that addresses "fire". In the portion of the document that discusses disease (5.5.2.5), please add a discussion of fish disease and parasites.

The Department appreciates the opportunity to comment on this document. Questions regarding LCR comments in this letter should be directed to Mr. Chris Hayes,

Response to Comment S6-48

The identified revisions have been made in the HCP.

Response to Comment S6-49

The identified revisions have been made in the HCP.

Response to Comment S6-50

In recent discussions with CDFG, it was determined that a section describing the roles and responsibilities of CDFG was not necessary.

Response to Comment S6-51

It is acknowledged that the Department of Fish and Game does not have a "No Surprises Rule." The Department has, as a matter of policy, adopted something akin to a No Surprises Rule that they have entered into implementation agreements that provide for no surprises assurances.

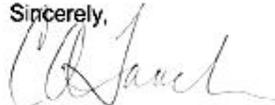
Response to Comment S6-52

The identified revisions have been made in the HCP.

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April 26, 20002
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Senior Environmental Scientist, at (760) 922-6508. Questions regarding Imperial Irrigation District Service Area and Salton Sea comments in this letter should be directed to Mr. Glenn Black, Senior Environmental Scientist, at (909) 597-5043.

Sincerely,



Curt Taucher
Regional Manager

Attachment - Literature Cited

cc: State Clearinghouse

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Carlsbad, CA 92008

Mr. Chris Hayes
Department of Fish and Game
Blythe, CA

Mr. Glenn Black
Department of Fish and Game
Chino Hills, CA

ATTACHMENT

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Letter - S7. The State of Arizona Game and Fish Department. Signatory - Duane L. Shroufe.

Response to Comment S7-1

Comment noted.

April 22, 2002



Mr. Robert W. Johnson
 Regional Director
 U.S. Bureau of Reclamation
 P.O. Box 61470
 Boulder City, Nevada 89006-1470

Re: Draft Environmental Impact Statement, Draft Environmental Report and Draft Habitat Conservation Plan for the Imperial Irrigation District Water Conservation and Transfer Project

Dear Mr. Johnson:

The Arizona Game and Fish Department (Department) has reviewed the "Draft Environmental Impact Statement (DEIS)/Draft Environmental Impact Report (DEIR) and Habitat Conservation Plan (HCP) for the Imperial Irrigation District Water Conservation and Transfer Project." Comments of the Arizona Game and Fish Department are based on the following provisions of Arizona law:

"Wildlife, both resident and migratory, native or introduced, found in this state except fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under permit from the commission [Arizona Game and Fish Commission], are property of the state and may be taken at such times, in such manner, and with such devices as provided by law or rule of the commission."
 (Arizona Revised Statutes § 17-102)

"The laws of the state relating to wildlife shall be administered by the game and fish department. Control of the game and fish department is vested in the game and fish commission."
 (Arizona Revised Statutes § 17-201)

"The [Arizona Game and Fish] Commission shall:
 "2. Establish broad policies and long range programs for the management, preservation and harvest of wildlife." (Arizona Revised Statutes § 17-231)

The Arizona Game and Fish Department has a trust responsibility for all fish and wildlife within the territorial jurisdiction of the State of Arizona.

S7-1

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Letter - S7
Page 2

On July 26, 1987, the Arizona Game and Fish Commission formally adopted a policy, titled "Wildlife and Wildlife habitat Compensation," which states, in part, that:

"It is the policy of the Arizona Game and Fish Commission that the Department shall seek compensation at a 100% level, when feasible, for actual or potential habitat losses resulting from land and water projects."

"Among factors deemed important by the Commission are potential impacts to special category species and/or economically important wildlife species as well as issues which reflect the value, quantity, and quality of habitats which may be impacted by proposed projects."

Further, on October 16, 1987 the Arizona Game and Fish Commission formally adopted the following policy, titled "Riparian Habitat":

"It is the policy of the Arizona Game and Fish Commission that the Department shall recognize riparian habitats as areas of critical environmental importance to wildlife and fisheries. The Department shall actively encourage management practices that will result in maintenance of current riparian habitat, and restoration of past or deteriorated riparian habitat...."

Response to Comment S7-2

Comment noted.

Response to Comment S7-3

Comment noted. Responses to the specific comments made in your letter regarding these issues are provided.

67-1

67-2

67-3

The Department understands that this DEIS/DEIR/HCP analyzes potential impacts from the implementation of the proposed Imperial Irrigation District Water Conservation and Transfer Project. The Proposed Project implements the Quantification Settlement Agreement (QSA). The QSA is an agreement between the Imperial Irrigation District (IID), Metropolitan Water District (MWD), Coachella Valley Irrigation District (CVID) and San Diego County Water Authority (SDCWA) to conserve and divert water in an effort to reduce California's water use to its normal year apportionment. The QSA requires a change in the water diversion point for maximum of 300,000 acre feet per year (AFY) from the IID's All American Canal at Imperial Dam to MWD's Whittsett Intake at Parker Dam. An Implementation Agreement (IA) commits the Secretary of the Interior, through the Bureau of Reclamation (BR), to make the necessary Colorado River water deliveries to implement the QSA. The Department notes that BR is the lead federal agency for this DEIS.

The Department supports the efforts of the Imperial Irrigation District to reduce their water use so that the State of California use of Colorado River water is limited to the established apportionment. However, we note that the Colorado River below Parker Dam provides a variety of recreational opportunities and contains aquatic, riparian and wetland habitats essential for many species of fish and wildlife. For reasons detailed below, the Department believes that the DEIS/DEIR does not adequately analyze the impacts to biological resources and wildlife-related recreation on the Colorado River below Parker Dam or propose adequate mitigation for the impacts.

General Comments

67-4 IID and BR have not consulted with the Department (page 1 – 46 section 1.8.1) for impacts to fish and wildlife within the jurisdiction of the Department that may result from this project. The Department believes that the change in water diversion point has the potential to impact fish and wildlife resources in Arizona. For this reason, the Department believes it is necessary for IID and BR to consult with the Department on impacts to fish and wildlife under the Department's jurisdiction.

67-5 Under Section 662 of the Fish and Wildlife Coordination Act (16 USC 662 *et seq.*) federal agencies are required to consult with U.S. Fish and Wildlife Service (USFWS) on all water diversion projects. The section on required federal approvals from USFWS does not mention this consultation (page 1 – 44 section 1.7.1.2). The Department believes this consultation is an essential component of the NEPA analysis and should be completed prior to publishing and releasing the DEIS.

67-6 FWS has primary jurisdiction over species listed under the Endangered Species Act (ESA) and migratory birds and the state wildlife agencies have jurisdiction over all other fish and wildlife species. The Fish and Wildlife Coordination Act requires the federal proponent of water diversion project to consult with the state wildlife agency when the diversion affects wildlife within the state's jurisdiction. This consultation provides state agencies an opportunity to analyze potential impacts to fish and wildlife resources and propose mitigation under its jurisdiction. BR has not yet initiated this consultation with the Department and this DEIS only analyzes impacts to and proposes mitigation for species listed under ESA. Therefore, the Department requests that this consultation be initiated and completed prior to publishing a revised DEIS.

67-7 BR published a separate DEIS for this proposed water transfer (Draft Environmental Impact Statement Imperial for the Implementation Agreement, Inadvertent Overrun and Payback Policy and Related Federal Actions). After reviewing both documents, the Department notes that each DEIS tiers to the other. Because an alternative has not yet been selected by either agency, the precise extent of the impacts and the appropriate mitigation is not certain and a thorough review of either document is not possible. In addition, tiering to drafts can result in misunderstandings. For example under the section on Migratory Birds (pages 4-1 and 2) in the BR DEIS it states that the IID DEIS will propose mitigation for impacts to migratory birds. The IID DEIS relies on the conservation measures in the USFWS Biological Opinion for Interim Surplus Criteria, Secretarial Implementation Agreements and Conservation Measures on the Lower Colorado River (LCR), Lake Mead to the Southerly International Boundary Arizona, California and Nevada (BO). The BO is limited to species listed under ESA and does not propose mitigation measures for impacts to migratory birds. For these reasons, the Department believes that tiering to Draft NEPA documents does not allow a thorough review of environmental impacts and appropriate mitigation from the proposed projects or alternatives.

67-8 The analysis of impacts to wildlife in the reach of the Colorado River below Parker Dam is based on a model of the river using the Colorado River Simulation System on the Riverware software

Response to Comment S7-4

The EIR/EIS incorporates by reference Reclamation's analysis of LCR impacts from the IA EIS. We believe the IA EIS is the best forum for incorporating comments from AGFD. Reclamation initiated consultation with USFWS for the IA in February 2001, and provided funding to USFWS for mitigation recommendations under the FWCA. Although it is not the responsibility of USFWS to assure coordination with AGFD, it was Reclamation's expectation that USFWS would coordinate their recommendations with AGFD. We regret that this coordination was delayed. Nevertheless, Reclamation remains open to any comments that AGFD may have regarding mitigation recommendations for effects on the Colorado River which you believe may not be addressed by the biological conservation measures adopted by Reclamation. USFWS has provided their FWCA recommendations in the form of a comment letter on the Draft IA EIS.

Response to Comment S7-5

See Response to Comment S7-4.

Response to Comment S7-6

See Response to Comment S7-4.

Response to Comment S7-7

Please refer to the Master Response on *Other—Relationship Between the Proposed Project, QSA, IA, IOP, and CVWD Groundwater Management Plan* in Section 3 of this Final EIR/EIS.

Response to Comment S7-8

We agree that long-term monitoring is necessary to accurately determine those impacts. This monitoring is part of the requirements Reclamation has agreed to for the Biological Opinion issued by the USFWS. This monitoring would also help to determine which impacts are due to the proposed transfers and which are due to other stochastic events that may occur in the system.