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December 29, 2015

State Water Resources Control Board  
Felicia Marcus, Chairwoman  
Jeanine Townsend, Clerk of the Board  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)  
1001 I Street, 24th Floor  
Sacramento, CA 95814

Re: Salton Sea Task Force  
Board Notice (12-04-2015)  
Board Workshop (01-05-2016)

Dear Chairwoman Marcus and Board Members:

We represent several farming families who own and operate approximately 20,000 acres in Imperial Irrigation District. Our clients previously submitted written comments in connection with IID's petition to modify WRO 2002-0013 and the State Board's March 18, 2015 workshop relating thereto. Our clients' March 9, 2015 comments and April 2, 2015 post-workshop comment letter are incorporated herein.

Pursuant to the State Board's Notice, the January 5, 2016 workshop will address the Salton Sea Task Force Agency actions making up the Salton Sea Management Program as set forth in the Task Force's October 9, 2015 release (the "Task Force Release"). The Task Force Release states that one of the "principles" for a successful Salton Sea Management Program is maintaining a stable and secure Colorado River water supply. The Task Force Release states that this principle will be a primary factor that will "drive decision-making."

However, neither the Task Force Release nor the Notice suggest that this fundamental principle, the stability and security of the water supply of the Colorado River, will be discussed at the January 5, 2016 workshop.

IID's November 18, 2014 petition raised a number of significant issues regarding the QSA as it relates to Colorado River supply. Those issues, including issues regarding Salton Sea restoration as an indispensable component of the QSA, remain unanswered. Uncertainty associated with QSA implementation threatens to undermine the stability and security of the water supply, and it would contradict the stated principle of the Task Force to allow these issues to remain unaddressed.

Our clients' expert, Craig Morgan of Avalex, Inc., in his April 3, 2015 comments to the State Board, raised several questions concerning Colorado River supply, including IID's unanticipated post-QSA lack of adequate water storage. The imposition of a 3.1 million acre-foot cap on IID's water supply under the QSA without provisions for accommodating annual fluctuations in demand has severely restricted IID's ability to satisfy the water supply demands of its existing users. Lacking adequate storage, the district has resorted to fallowing additional lands and imposing limitations on the use of water by the valley's irrigators with significant injury to them. There are a number of storage options that should be investigated and discussed. For example, should the December 13, 2007 *California Agreement For The Creation And Delivery of Extraordinary Conservation Intentionally Created Surplus* be terminated to allow for more storage opportunities? Should IID store water in the SDCWA system, or in Arizona? In comments made in June 2015 to the Little Hoover Commission, Mr. Morgan raised other possible water supply related strategies to address the anticipated accelerated declines in the elevation of the Salton Sea after 2017. One is to suspend, or at least not ramp-up, QSA transfers until there is some certainty regarding Salton Sea restoration. Another is to possibly utilize IID's entitlement underruns when they occur as mitigation water for the sea or to sell this water as a means of funding Salton Sea restoration. In our view these ideas, which are consistent with one of the primary goals of the Task Force, should be investigated and discussed.

Finally, our clients' prior comments showed concern as to whether there may be additional demands for water associated with the restoration of the Salton Sea, over and above the significant reductions that have historically occurred. The Task Force, and those participating with it, should make clear, consistent with its stated principle, that the stability and security of our clients' water supply will in no way be jeopardized or put at risk. Clearly, it was a fundamental premise held by all parties that farmers within IID who continued their farming operations were not to be injured, or exposed to liability, as a result of the QSA transactions. Our clients' prior comments suggested that controlling law should not be overlooked, neglected, or ignored. We identified a number of legal issues concerning water rights, including the application of the prior appropriation doctrine and its rules concerning diligent construction relating to pre-1914 rights, joint ownership of water rights, and no injury. The Task Force process cannot be purely political, but, instead, should be governed and bound by controlling law. We submit this should be the paramount principle that guides the Task Force.

Respectfully Submitted



Theodore A. Chester, Jr.

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