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Protestant

State Water Resources Control Board

Petition of Imperial Irrigation District and
San Diego County Water Authority for
approval of long-term transfer of conserved
water under permit 76433 Application No.
7482

Brief of Protestant William I. DuBois as to the petition July 11, 2002
The water use systems served by the All-American Canal at the lower end of the Colorado River accommodate Bard, Indian reservations, part of Arizona, a hydro generation station at Pilot Knob, the Imperial Irrigation District (IID) and Coachella Valley Water District (CVWD). CVWD and IID run farm drainage water and urban wastewater into the Salton Sea. Farm irrigation drainage water is the predominant source of water which maintains the Salton Sea. The Sea has become a convenient habitat for some species of fish and many species of birds.

In 1984, the State Water Resources Control Board (SWRCB) determined, based upon information furnished by the California Department of Water Resources (CDWR) that it was not reasonable for IID to drain that much water into the Salton Sea, and ordered IID to improve its system efficiency so that others could use much of the water which was then draining into the Sea. IID complied initially by agreeing with MWD to salvage, at MWD’s expense, about 100,000 acre-feet a year. Farmers couldn’t afford to pay for all that canal lining and system holding ponds, which, when built at MWD expense, saved much of the water from running off, thus assisting farmers in improving their own water application efficiency.

Because CDWR had reported that it was reasonable to reduce farm runoff to a greater extent, the SWRCB requested more water efficiency by the IID. IID then made an agreement with SDCWA for them to buy from IID that salvage water which would be made available by IID. Subsequent agreements increased and reassigned parts of the volume of the agreement to cover transfer of up to 300,000 AF of water to SDCWA, Metropolitan Water District (MWD) and CVWD. The EIR/S shows that when IID and farmers reduce their field surface runoff into Salton Sea in order furnish transfer water, the Sea will diminish in size and more rapidly become more saline than fish can tolerate, thus harming both the fish and the birds that depend on the fish for food.
The authors of the EIR/S, required to come up with a proposed alternate method of reducing IID’s water consumption, but still maintain Salton Sea as a fish and bird habitat, proposed that 80,000 acres of farmland in IID be fallowed. The surface evaporation of the Sea would thus be balanced with water charged to the account of IID but not used for irrigation, but instead be used for delivery to the Sea. This plan is called HCP2.

This proposed alternative is apparently being supported by the governor, at least one U. S. Senator, five “public interest” organizations often classified as environmentalist, a regional water quality control board executive officer, the Salton Sea Authority and now apparently even by the SDCWA. To the consternation of many of those of us at risk, the Department of the Interior and the Bureau of Reclamation have expressed that we must treat the Salton Sea as a separate matter, and not let these concerns cloud the transfer. However, no competent court, legislative or executive body has ruled that IID won’t be held liable if Salton Sea values are lost when we reduce our field surface runoff to Salton Sea. Thus, we can only envision approval of this proposed transfer as resulting in large scale farm falling in IID, as prescribed in HCP2.

The whole matter has become enigmatic. The people of Imperial County know that fallowing land simply decreases the economy, making many now-marginal services unavailable in the future. The Salton Sea cannot be maintained as a fishery on a long-term basis anyway, any more than Mono Lake or Great Salt Lake could be restored as a fishery. No local government would even try to do this, nor would the State of California even in good financial times; and the federal government is only better off financially because they can raise more taxes from more people than can the state. The wisdom of such an undertaking is not measurably different for any of these political bodies. None has shown any enthusiasm for “saving Salton Sea” except for policy expressions.

The problem is not one which can justly or effectively be placed on IID’s shoulders. IID has shown itself willing to generate the water for the transfer by compensated improvements and on-farm water application improvements. Both are very costly and
beyond the means of farmers, but the methods can provide salvage water that is affordable for municipal purposes. Other governments and judiciary systems must absolve IID of responsibility for what happens to Salton Sea, if they want the water to go to the south coast instead of Salton Sea.

If the SWRCB makes a decision to approve the transfer under this EIR, IID would be forced to fallow productive farmland in order to serve the Salton Sea. That would be a use of the water, which by D-1600, was determined to be a misuse of water even while the land was being farmed and only the farm runoff went to the Sea.

This issue is not ripe for a decision by the Board. As was requested in my opening statement, the Board should recess the hearings until the Board has a complete logical proposal placed before it. This is essentially one of the arguments made by County of Imperial in its brief.

It makes no sense for the water to be taken away from a desert region which has no other feasible source of water to develop, and which can and is increasing its economy and population, in order to make it less expensive for a coastal region which wants its economy and population to grow faster than its present water supply can allow, and does have other sources. Unless that coastal region is willing to, and does, make whole the desert region’s inhabitants and mitigate its environmental losses, the present transfer agreement and application should be allowed to expire, without prejudice.

If the Board feels it must make a decision, that decision must be conditioned on reducing the time span of its effectiveness to a period ending in 30 years to coincide with the MWD-SDCWA Exchange Agreement, and the amount of the transfer limited to 100,000 acre-feet a year, which can be salvaged by IID system improvements. The effect of the system improvements will have little effect on the Salton Sea supply for many years. Attesting to that fact is the testimony of IID witnesses that the MWD-IID system improvements, which conserved over 108,000 AF annually, have not yet affected the Salton Sea supply, although these improvements have been in use for several years.
IID has already “gone the extra mile” offering to give more than its share in order to do everything reasonable to comply with D1600 and order 88-20 by:

1. offering to risk its own borrowed capital to generate water for transfer, and

2. offering to accept remuneration which is much below cost of generation for part of the water to go to CVWD.

Some of IID’s transfer protesters (the chickens) want to invite IID farmers to a breakfast of ham and eggs with IID playing the part of the pigs and furnishing the ham (the water it must have for farming).

Insufficient recognition has been given to the fact that although IID has a good water right, it has no right to dedicate water for environmental purposes, but only for domestic and irrigation purposes. Although Salton Sea serves an agricultural purpose, that purpose is as a depository of irrigation runoff and drainage. Salton Sea’s designated purpose and IID’s water right would both be violated if part of IID’s Colorado River Supply is instead devoted to maintaining fish and wildlife and other strictly environmental purposes by being devoted to maintain the Sea.

Having been afforded the opportunity to review the brief of Larry Gilbert, I wish to state that I concur with the views expressed by him in his brief.

Contemplating all the complications involved in this water transfer application before the Board, it is clear that the transfer, if completed as dictated by the FEIR/EIS, would in essence, amount to a very simple operation:
1. SDCWA gets water that now feeds Salton Sea.

2. IID (farmers and landowners) are compensated for reducing IID’s withdrawals at Imperial Dam.

3. Salton Sea feed water stream is reduced to consist of only IID’s tile line effluent plus Mexicali waste stream and CVWD wastewater.

4. Some group, or combination of groups, are held responsible for damaging endangered and/or threatened species at Salton Sea.

5. The cheapest source of water (fewest number of voters per acre-foot of water) is IID. IID agriculture shrinks by about 85000 acres (1/5 to 1/6 of IID’s billion dollar a year contribution to supplying year long crops to society).

6. Somebody cries “Foul” to the courts, citing Water Code section 106:

   “It is hereby declared to be the established policy of this state that the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation . . . .”

I share many other concerns which are recited in Mr. Gilbert’s and also the points recited in Mr. Rossmann’s Imperial County brief.

Dated: July 11, 2000

Respectfully submitted,

William I. DuBois