ORGANIZATION

The comments in this report focus on the following areas:

I. Environmental Justice
II. Economic Growth and Development
III. Socio-Economics and Third Party Impacts.
IV. The Salton Sea
V. Fallowing or Water Conservation
VI. Air Quality
VII. Archeological Resources

DISCUSSION

I. Environmental Justice

Environmental Justice plays a key role in any of the deliberations regarding the transfer between Imperial Irrigation District and the San Diego County Water Authority. Environmental Justice, which is enforced by the Environmental Protection Agency, became a factor in any federal project through Executive Order 12898 signed in 1994 by President Clinton.

The goal of environmental justice is to ensure that all people, regardless of race, national origin or income, are protected from disproportionate impacts of environmental hazards. To be classified as an environmental justice community, residents must be a minority and/or low income group; excluded from the environmental policy setting and decision-making process; subject to a disproportionate impact from one or more environmental hazards; and experience a disparate implementation of environmental regulations, requirements, practices and activities in their communities.

Comment 1

It is unreasonable for Imperial Valley residents and farmers to risk their businesses, livelihoods or farms to transfer water to other users as a result of political pressure brought to bear by federal and state governments. In fact, this is the crux of the issue of environmental justice. The Imperial Valley meets the criteria for a stringent environmental justice review. The IID should deem it is essential that we have indemnity against surprises in the form of an order to mitigate or pay for impacts to the persons, property or the environment resulting from good-faith fulfillment of the water transfer. Also, the IID must be “held harmless” from any future costs of litigation or judgments stemming from environmental problems caused by the transfer which potentially would be passed along to ratepayers.

Comment 2

The thoroughness of the Environmental Justice review has been questioned by several agencies. Many have concluded that the water transfer EIR-EIS erroneously dismissed environmental justice as a factor in the transfer.

Response to Comment L9-2

Comment noted.

Response to Comment L9-3

Comment noted. The previous Draft EIR/EIS has been revised to reflect this concern. This change is indicated in this Final EIR/EIS in subsection 3.15 under Section 4.2, Text Revisions. In addition, the EIR/EIS process is designed to identify, to the extent possible, the potential impacts of the Project as well as appropriate and feasible mitigation measures. We note that the Implementation Agreement for the HCP is expected to limit liability for unforeseen circumstances pursuant to the "No Surprises Rule" implementing Section 10 of the federal ESA. It is anticipated that the IID Board will evaluate the risks and costs of the Project before committing to proceed and that farmers will evaluate the advantages and disadvantages in the voluntary on-farm program before deciding to participate.

Response to Comment L9-4

The previous Draft EIR/EIS has been revised to reflect this concern. This change is indicated in this Final EIR/EIS in subsection 3.15 under Section 4.2, Text Revisions.
The second implementation scenario for the Proposed Project (QSA Implementation) includes the more restrictive limit on IID’s future diversions of Colorado River water on IID’s Priority 3 diversions. Under the maximum transfers provided for under the QSA, IID would retain the ability to divert in excess of 2.6 MAFY of Colorado River water for agricultural, industrial, and domestic use within the IID water service area. This amount is anticipated to be sufficient for continued agricultural production at Baseline levels.

Response to Comment L9-6
The Executive Summary of the report prepared by CIC Research, dated March 15, 2002 (revised April 9, 2002) states: “CIC could find no substantive disagreement with the results as presented in the IID Water Conservation and Transfer Project Draft EIR/EIS.”

The Salton Sea Baseline, which projects existing conditions at the Salton Sea into future years, is based upon a reasonable methodology and assumptions. Refer to the Master Response on Hydrology—Development of the Baseline in Section 3 of this Final EIR/EIS.

Also, refer to the Master Response on Socioeconomics—Crop Type Assumptions for Socioeconomic Analysis of Fallowing in Section 3 of this Final EIR/EIS for additional details regarding the assumptions used in the following impact analysis.

Response to Comment L9-7
The Socioeconomics section of the Draft EIR/EIS (Section 3.14) identifies fallowing as having the greatest adverse effects on the regional economy of the conservation measures identified. The estimated magnitude of the adverse effects is presented in the Socioeconomics section.

Also, the commenter is incorrect in stating that all the Alternatives contain fallowing. Neither Alternative 1 nor Alternative 2 contain fallowing. The commenter is also incorrect in stating that fallowing will occur until on-farm or water delivery system conservation measures are implemented. Since the water conservation program is voluntary, any of the conservation measures could be implemented at any time during the Project term of 75 years.
**Response to Comment L9-8**

The projected Baseline for the Salton Sea is based on historical meteorology and thus does take into account historic rainfall variability. See Master Responses on Hydrology—Development of the Baseline and Other—Relationship Between the Proposed Project and the Salton Sea Restoration Project in Section 3 of this Final EIR/EIS.

**Response to Comment L9-9**

The Draft EIR/EIS has been revised to better identify the potential socioeconomic impacts to the Salton Sea subregion. This change is indicated in this Final EIR/EIS in subsection 3.14 under Section 4.2, Text Revisions. Also, refer to the Master Responses on Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan and Socioeconomics—Property Values and Fiscal Impact Estimates in Section 3 of this Final EIR/EIS.
Response to Comment L9-10

If the San Diego region met its water quality objectives via desalination, reuse of wastewater, and/or declaring a moratorium on new homes and the Proposed Project was not implemented, impacts in the Imperial Valley would be those discussed under Alternative 1, No Project, as presented in the Draft EIR/EIS. In addition, refer to the Master Responses on Other—Desalination in SDWCA Service Area and Comments Calling for Increased Conservation and Other—Growth Inducement Analysis in Section 3 of this Final EIR/EIS.

Response to Comment L9-11

The Proposed Project involves the implementation of agricultural conservation measures only. Municipal and industrial water supplies would not be impacted, nor would water supplies which could serve future growth in the Imperial Valley be threatened (see response to Comment L9-5). While it is unknown what level of impact would result by declaring a moratorium on new homes in the San Diego region, it is generally anticipated that a negative impact on the quality of life in San Diego would result.

Response to Comment L9-12

Refer to response to Comments L9-5 and L9-11. For conditions affecting the SDCWA service area through the Project term without implementation of the Proposed Project or Alternatives, refer to Section 2.3.2.1 in the Draft EIR/EIS.

Response to Comment L9-13

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 L9-14

Comment noted.
Response to Comment L9-15
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 L9-16
Refer to the Master Response on *Socioeconomics*—Property Values and Fiscal Impact Estimates in Section 3 of this Final EIR/EIS.

Response to Comment L9-17
The EIR/EIS does not evaluate the overall economic feasibility of either the QSA or the financial terms of the IID/SDCWA Transfer Agreement. It is anticipated that the IID Board will consider the economic benefit and liabilities of the Proposed Project prior to deciding whether to approve the Proposed Project.
Response to Comment L9-18

The results from the CIC Research report (1989) were adjusted to 2001 dollars for use in the Draft EIR/EIS. According to the data presented in the Recreation section of the Draft EIR/EIS, there has not been a consistent pattern in visitor use that would justify any revised estimate of the 1987 visitor use data presented in the 1989 report.

Response to Comment L9-19

Comment noted.

Response to Comment L9-20

The Draft EIR/EIS concludes, as noted by the commenter, that fallowing produces the most negative socioeconomic impacts in the Imperial Valley as compared to alternative conservation measures. However, the impacts to biological and other environmental resources in and around the Salton Sea are reduced with fallowing compared to alternative conservation measures.

Regarding the impact of fallowing on land values in the Imperial Valley due to air quality issues, refer to the Master Responses on Air Quality—Air Quality Issues Associated with Fallowing; and Air Quality—Aggregate Emissions from the Salton Sea, Fallowing, and Construction in Section 3 of this Final EIR/EIS.

Regarding the assumption used for crops affected by fallowing, refer to the Master Response on Socioeconomics—Crop Type Assumptions for Socioeconomic Analysis of Fallowing in Section 3 of this Final EIR/EIS.

Regarding the comment on transfer revenues, refer to response to Comment L9-25.
Response to Comment L9-21
Please refer to the Master Response on Other—Growth Inducement Analysis in Section 3 of this Final EIR/EIS.

Response to Comment L9-22
Please refer to the Master Response on Other—Growth Inducement Analysis in Section 3 of this Final EIR/EIS.

Response to Comment L9-23
Please refer to the Master Response on Other—Desalination in SDWCA Service Area and Comments Calling for Increased Conservation in Section 3 of this Final EIR/EIS.

Response to Comment L9-24
Comment noted.

Response to Comment L9-25
The analysis presented in the Draft EIR/EIS accounts for the loss of transfer revenues that could occur due to participation in the conservation program by out-of-county landowners. Also note that the Proposed Project also includes the option of constructing on-farm and water delivery system measures, which would generate economic activity in the Imperial Valley.

With regard to the comment on the future growth and development in the County, refer to response to Comment L9-5, which discusses the continued availability of water for domestic, agricultural, and industrial use in Imperial County.
Regarding the continued availability of water for agricultural production, see the response to Comment L9-5.

The adverse impact of lost jobs from fallowing is identified in the Socioeconomics section of the Draft EIR/EIS (Section 3.14). The effect of fallowing on air quality is discussed in the Master Response on Air Quality—Air Quality Issues Associated with Fallowing in Section 3 of this Final EIR/EIS.

The effect of the Proposed Project on environmental justice is discussed in the revised Environmental Justice section (see subsection 3.15 under Section 4.2, Text Revisions of this Final EIR/EIS).

The Proposed Project would implement tailwater reduction as an on-farm conservation measure to generate conserved water for transfer in a manner consistent with IID's water rights and the applicable Law of the River. We agree that the Salton Sea has no entitlement to use of Colorado River water.

As to the financial investment required of farmers under the on-farm conservation program, participation by farmers is voluntary. It is anticipated that farmers will consider the economic costs and incentives of the program prior to deciding whether to participate.

The socioeconomic impact analysis presented in the Draft EIR/EIS includes the expected impacts to all sectors that make up the Imperial County economy. A more disaggregated presentation of the results that shows impacts to groups of sectors can be found in Appendix G of the Draft EIR/EIS.

Regarding the effect of fallowing on land subject to a Williamson Act contract, IID recognizes that Imperial County has elected to develop an agricultural preserve pursuant to the California Land Conservation Act, better known as the Williamson Act, California Government Code Section 51220 et seq. We also acknowledge the legislative findings cited by the commenter. The Williamson Act is described in Section 3.5.2.2 of the Draft EIR/EIS as part of the state laws applicable to agricultural resources.

The Draft EIR/EIS analyzes the impacts of the Project on the broad
category of agricultural resources, which the Williamson Act is designed to protect. The Draft EIR/EIS describes the potential for fallowed land to be converted to non-agricultural use in Section 3.5.4.1 and applies significance criteria (described in Section 3.5.4.2) that identify significant impacts to agriculture. As noted in the Draft EIR/EIS, if fallowing were used as the only method to conserve the maximum amount of water anticipated by the Project, the following acreages would need to be fallowed: 50,000 acres for the water to be transferred to others; 25,000 acres to generate water to offset changes in inflow to the Salton Sea pursuant to the Salton Sea Habitat Conservation Strategy; and an additional 9,800 acres for compliance with the IOP. The HCP may also result in the use of up to 700 acres of agricultural land for habitat creation or enhancement.

The Draft EIR/EIS finds that conservation by rotational fallowing (for no more than three consecutive years) will not result in a significant impact to agricultural resources. The Draft EIR/EIS notes that rotational fallowing is consistent with existing agricultural practices and that approximately 20,000 acres are fallowed each year in the Imperial Valley without the Project. However, the Draft EIR/EIS finds that fallowing for longer periods, if it causes the reclassification of prime farmland or the conversion of agricultural land to a non-agricultural use, would be a significant impact to agricultural resources. The only identified mitigation measure for this significant impact is to prohibit long-term or permanent fallowing. This significant impact on agricultural resources does not appear to be consistent with the intent or objectives of the Williamson Act.

The Draft EIR/EIS also describes the socioeconomic impacts of fallowing in Section 3.14.

As noted above, the Draft EIR/EIS reviews the impacts of the Project on agricultural resources and socioeconomic effects of the Project. The Draft EIR/EIS recognizes the historical use of rotational fallowing in the Imperial Valley and concludes that water conservation through short-term or rotational fallowing will not have a significant impact on agricultural resources.

We disagree with the comment that short-term or rotational fallowing is not permitted by, or is inconsistent with, the Williamson Act. The Williamson Act does not require the continuous cultivation of agricultural lands within the preserve or preclude the fallowing of those lands for reasonable time periods.

Under the statutory criteria, the eligibility of land for a Williamson Act contract depends primarily on soil type and capability, rather than the level of productivity. No provision of the Williamson Act prohibits the fallowing of enrolled land. The Act permits "agricultural use," which includes recreational use and open-space use, as well as any "compatible use," which is defined as follows:

"Compatible use" is any use determined by the county or city administering the preserve pursuant to Section 51231, 51238, or 51238.1 or by this act to be compatible with the agricultural, recreational, or open-space use of land within the preserve and subject to contract. "Compatible use" includes agricultural use, recreational use or open-space use unless the board or council finds after notice and hearing that the use is not compatible with the agricultural, recreational or open-space use to which the land is restricted by contract pursuant to this chapter.” [Gov't. Code § 51201(c)]

The state statute provides principles of compatibility which govern compatible use decisions by local agencies [Gov't. Code § 51238.1(a)]. These principles indicate that an incompatible use is one which compromises the long-term productive agricultural capability of the land. This is reasonable because rotational fallowing is often used to rest and enrich a field for purposes of enhancing productivity. Short-term fallowing also does not conflict with the legislative policy, as codified in Government Code Section 51220.5, that the purpose of the compatibility requirements is to prevent agricultural land from becoming over-populated and urbanized. In response to our inquiry, staff analysts at the California Department of Conservation confirmed that fallowing is allowed under the Act.

Moreover, the form of contract submitted by the County of Imperial to the Department of Conservation as its standard form does not prohibit fallowing. Rather, in its recitals, it states that the Owner and County desire:

"...to limit the use of said Property to agricultural and compatible uses in order to discourage premature and unnecessary conversion of land to urban use, and recognize that such land has substantial value to the public as open space and the preservation of such land in such use constitutes an important physical, social, aesthetic, and economic asset to County.”

Fallowing is consistent with these purposes.

Response to Comment L9-28

Depending on whether non-rotational fallowing (i.e., fallowing for more than 4 years) is used to implement the Proposed Project, the Project could result in the reclassification of prime farmland or farmland of statewide importance. In turn, long-term fallowing would adversely affect employment opportunities and business output in Imperial County. It has not been determined, however, that non-rotational fallowing would "limit agricultural growth" in Imperial County, as the remaining farmland could be farmed more intensively and/or fallowed land could be brought back into production. The IID Board will consider whether to implement socioeconomic mitigation measures when it considers whether to approve the Proposed Project or an alternative to the Proposed Project.
Response to Comment L9-29
We believe the EIR/EIS is a good faith and reasonable effort to identify and assess the socioeconomic impacts of the Project and Alternatives based upon available information and assessment methods. Impacts to farm workers and businesses in Imperial County are included in the EIR/EIS in Section 3.14, Socioeconomics.

The IID Board will consider all public comments regarding the implementation plan when it considers whether to approve the Proposed Project or an Alternative to the Proposed Project.

Response to Comment L9-30
The Draft EIR/EIS reports the total jobs that are anticipated to be lost within the Imperial County economy as a result of fallowing in Section 3.14. These job loss estimates include job losses in farm support industries.

Response to Comment L9-31
Refer to the Master Response on Socioeconomics—Property Values and Fiscal Impact Estimates in Section 3 of this Final EIR/EIS.

Response to Comment L9-32
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 L9-33
Refer to the Master Responses on Socioeconomics—Property Values and Fiscal Impact Estimates and Biology—Approach to Salton Sea Habitat Conservation Strategy in Section 3 of this Final EIR/EIS. The IID Board will consider whether to implement socioeconomic mitigation measures when it considers whether to approve the Proposed Project or an alternative to the Proposed Project.