Response to Comment T3-7

At this time, no impacts have been identified as potentially occurring to cultural resources affiliated with the Quechan Indian Tribe. After site-specific locations have been identified for implementing biological conservation measures, Reclamation will conduct additional cultural resource surveys to determine what, if any, cultural resources would be impacted by any on-the-ground activities that would occur. Should it be determined that cultural resources affiliated with the Quechan Indian Tribe might be affected by those activities, Reclamation will initiate consultation under Section 106 of the NHPA, as appropriate.

Response to Comment T3-8

NEPA and CEQA require an analysis of the incremental effects of a project that are cumulatively considerable when viewed in connection with closely related past, present, and reasonably foreseeable future projects. Generally, effects of a particular project or group of projects must meet the following criteria to be considered in the cumulative impacts analysis:

- Effects of an action occur in a common locale or region;
- Effects on a particular resource are similar in nature; and
- Effects are long term rather than short term (short-term effects dissipate and may not contribute to cumulative impacts).

The list of projects/actions addressed in the cumulative impacts of the EIR/EIS includes all projects identified by the Lead Agencies that could occur in the same region of influence, could affect the same resources, and could have long-term effects as the Proposed Project. However, it is true that this EIR/EIS, the IA EIS, and the QSA PEIR include different cumulative projects. This disparity is appropriate given the differing regions of influence and extent of the impacts of these projects. The region of influence for the IA and IOP is the LCR. The regions of influence for the Proposed Project and the QSA PEIR include the LCR as well as the Salton Sea, the IID water service area, the CVWD, MWD, and SDCWA service areas, and various conveyance/distribution facilities.

In response to the specific list of projects requested by the commenter to be included in the cumulative impact analysis, only the Glamis Mine project was found to be appropriate to include. The previous Draft
Response to Comment T3-8 (continued)

EIR/EIS has been revised to include the Glamis Mine project in the cumulative impact analysis. This change is indicated in this Final EIR/EIS in subsections 5.1.1 and 5.1.2.5 under Section 4.2, Text Revisions. The other projects mentioned in the comment are not appropriate to include for the following reasons:

- **Consumptive Use Policy**: This policy has not been adopted by Reclamation. Its effect, if any, is too speculative to consider for the cumulative impact analysis.
- **International Agreement for Water Deliveries to Mexico**: The Project will not result in impacts to Mexico. Therefore, no cumulative effects to Mexico could occur with implementation of another project or agreement.
- **LROC for Colorado River**: This is not a project. Rather, it is a regulatory process that has been in effect since 1970. Its effect on the River, if any, is reflected in the Baseline.
- **Rule for Offstream Storage**: This rule would affect Colorado River flows outside of the Project's region of influence. Nevertheless, its effect on the Colorado River is too speculative to consider for the cumulative impact analysis.

Response to Comment T3-9

Please refer to the Master Response for 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 T3-10

The QSA, IA, and IID/SDCWA Transfer Agreement will not interfere with the federal reserved right PPRs or with additional PPR rights that may be granted to the Tribes in future supplemental decrees. The Tribes are entitled to use their full entitlements for reasonable beneficial use. Sections B.3.f., B.4.d., and B.5.c. of the IA were not drafted to address the rights of the Quechan Indian Tribe or other Tribes, nor do they impact such rights. Those provisions prorate the individual forbearance in consumptive use by IID, CVWD, and MWD when California water districts are required to reduce use to prevent California's consumptive use from exceeding the amount of Colorado River water available to California that year. For scheduling purposes only, the California water districts will assume that water use by the higher-priority California water users, such as the Quechan Indian Tribe, will be the same as their historic average use. This scheduling presumption is made only so the districts can schedule their water use with more certainty; it does not restrict the rights of the Quechan Indian Tribe or other Tribes. If the Tribes' use exceeds the amount of water the water districts projected, then IID, CVWD, and MWD will need to forbear some of their consumptive use to keep California's consumptive use from exceeding the amount that is available to California. The QSA is the agreement among IID, CVWD, and MWD as to how a required reduction will be prorated among them. In the absence of the QSA, MWD would need to bear the entire forbearance in water use as the junior user within the California priority system.

Response to Comment T3-11

The Tribe is entitled to use its full entitlement for reasonable beneficial use with or without the QSA. Likewise, sections 2.1(2), 2.2(2), and 2.3(2) of the QSA are not designed to protect the rights of the Quechan Indian Tribe to water rights for an additional 9,000 acres of additional lands if that claim is upheld in the Supreme Court. As noted in the response to QT-1, the Court may uphold the Tribe's claim to additional land, enter a supplemental decree, and increase the Tribe's federal reserved right PPR. In that event, the Tribe will be entitled to use its full increased entitlement for reasonable beneficial use. If IID, CVWD, and MWD do not modify their prorata shares of the responsibility for bearing any reduction to keep California's use within 7.5 MAFY in a normal year, the entire reduction for water used on the additional 9,000 acres would be borne by MWD as the junior priority user in California.
Mr. Bruce D. Ellis  
April 23, 2002  
Page 4

Thank you for your consideration. The Tribe urges BOR and IED to carefully consider  
these comments, and to respond in a detailed, readable manner, given the Tribe’s status, the  
75-year, irreversible nature of this project, and the many other projects affecting the lower  
Colorado River.

Sincerely yours,

MORITSET, SCHLOSER, Jozwiak & McGaw

cc: Mike Jackson Sr., President  
Quochoi Indian Tribe

Mason D. Morisset
COLORADO RIVER INDIAN TRIBES
OFFICE OF THE ATTORNEY GENERAL

April 28, 2002

VIA FACSIMILE

Mr. Bruce D. Ellis
Bureau of Reclamation
Phoenix Area Office
P.O. Box 11109
Phoenix, AZ 85069

Mr. Elliston Grubaug
Manager of Resources, Management, and Planning Department
Imperial Irrigation District
P.O. Box 537
Imperial, CA 92251

Re: Supplement to Comments on Draft EIR/EIS for the Imperial Irrigation District Water Conservation Plan and Transfer Project and Draft Habitat Conservation Plan

Dear Mr. Ellis and Mr. Grubaug:

Attached please find a copy of comments regarding the Draft EIR/EIS prepared by AQUA TERRA Consultants on behalf of the Colorado River Indian Tribes (CRIT). These comments are intended to supplement our comment letter of April 26, 2002. If you have any questions, please do not hesitate to call me at (928) 669-4566 or (928) 669-1271.

Sincerely,

Eric N. Shepard
Assistant Tribal Attorney

Enc.
Reclamation's Colorado River Simulation System (CRSS) model was implemented in the RiverWare modeling system and uses the same methodologies as the previous version of CRSS. See Appendix G of the Implementation Agreement, Inadvertent Overrun and Payback Policy, and Related Federal Actions EIS (IA EIS). These methodologies include the Index Sequential Method (ISM) for modeling future hydrologic inflows. As noted in several publications (USBR 1985; Kendall and Dracup 1991; and Ouarda et al. 1997), ISM has been shown to be an acceptable technique for representing future hydrologic sequences on the Colorado River. Reclamation is currently involved in research with regard to extending the current natural flow hydrology database, as well as generating alternative flow sequences using stochastic methods. However, at this time, the ISM remains the standard technique used for CRSS studies. The following response to a comment on the IA EIS is included here for additional information:

The current 1906 to 1990 natural flow data are the best data available. Reclamation has an ongoing project to reconcile and re-compute the natural flow data from 1906 through 1995. This data verification is needed to assure consistency of the data that have been collected and compiled from different sources over this long period of time. Until this project is completed, Reclamation will continue to use current 1906 to 1990 natural flow data for modeling purposes.

Reclamation is certainly aware of the standard steps of model calibration, verification, and application. During the late 1970s and early 1980s, the original CRSS model was developed, calibrated, and verified (Reclamation 1985). Throughout the 1980s and early 1990s, the model was applied extensively for policy studies on the Colorado River. The current CRSS model, as implemented in RiverWare, was verified through an extensive process to reproduce the results of its predecessor (Fulp et al. 1996, Fulp et al. 1999). The verification process for the current CRSS model was reviewed by the Colorado River Modeling User Group, which is composed of members from all Basin States, as well as other interested parties. This group was formed in early 1994 and met quarterly through 1996 to review and discuss the efforts to replace CRSS. Invitation to participate in the CRSS replacement process was issued to the Colorado River Management Work Group (and all interested parties in attendance) at the initial Annual Operating Plan (AOP) meeting in 1994.
Response to Comment T4-3

Reclamation has done extensive calibration work throughout the Parker to Imperial reach, and used a reasonable estimate of Manning's $n$ (0.03) for the modeling done as part of the Biological Assessment for Proposed Interim Surplus Criteria, Secretarial Implementation Agreements for California Water Plan Components, and Conservation Measures (ISG-BA) presented in Appendix D of the IA EIS.

Response to Comment T4-4

Although the ISG-BA (Appendix D of the IA EIS) analyzed detailed effects between Parker and Imperial Dams of a range of possible flow reductions at Parker Dam (200 to 1,574 KAFY), the IA EIS provides the analyses in compliance with NEPA to allow the Secretary to make a determination of whether or not to approve the proposed action, which includes the transfer of between 183 and 388 KAFY from below to above Parker Dam. Therefore, there is no need to analyze additional flow reductions for the IA EIS.

Response to Comment T4-5

Comment noted. Rationale and justification of the selection of 1996 as the "baseline condition" for the detailed river analysis presented in the ISG-BA (Appendix D of the IA EIS) has been added in Appendix J of the IA EIS.

Response to Comment T4-6

The estimated relationship of river stage and groundwater levels as reported in the August 2000 Biological Assessment for Interim Surplus Guidelines and Implementation Agreement (Appendix D of the IA EIS) represent the best available data at this time.
As stated in response to comment IID-CRIT-AT-4, analysis of 1.574 KAFY flow reduction at Parker Dam is not required for the IA EIS. Using a daily model to predict daily river flows over 75 years is currently not possible, given the limitations in predicting critical variables on a daily basis (including water demands and hydrologic inflows throughout the system). However, Reclamation did analyze the hourly and daily effects on river flow and stage using two different techniques for disaggregation of the longer-term data. Further explanation of these techniques has been provided in Appendix J of the IA EIS.

Response to Comment T4-8

Since the IOP represents a variable year-to-year change in the river, sometimes increasing flow (i.e., during an overrun) and sometimes decreasing flow (i.e., during payback), both an average impact and a "worst-case" impact were in fact analyzed in the IA EIS.

Response to Comment T4-9

Under no circumstances will CRIT's water rights be impacted because of the Proposed Project.