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April 9, 2002

Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000
Attn: Andy Fecko

Re: Comments on Draft EIR/EIS, Imperial Irrigation District Water Conservation & Transfer Project

Dear Members of the State Water Resources Control Board:

This submittal is made on behalf of The National Wildlife Federation; I am acting as their consultant in these comments. A statement of my professional qualifications is attached. This submittal is based on a review of the following documents: Select portions of the Imperial Irrigation District/San Diego County Water Authority Water Transfer Agreement draft EIR/EIS (Abstract, Executive Summary, Purpose and Need, Objectives and Background, Project Description, and Growth-Inducing Impacts); select pages from SDCWA's web site (Water Transfer and Exchange Agreements); Summaries of the IID/SDCWA Transfer Agreement and the Proposed Quantification Settlement Agreement; and 2001 Calif. Legislative Session Senate Bill 221 (Calif. Gov. Code Sec. 66473.7).

In southern California where water is an imported resource, it is inherently true that in urbanizing areas, any increase in the available quantity of, or improvement in the reliability of water, is growth-inducing. While it may be deemed desirable to secure a more reliable water source, it is at the same time inherent that this improved reliability encourages and induces growth. This is historically obvious in the development history of southern California. And it is not just my professional opinion: The dEIR/EIS itself recognizes that it continues to be true, today and into the future: "All of the projections [for growth in the San Diego region] are *based on the assumption* that the *necessary* water supplies would continue to be available to the region in the future." [emphasis added] (dEIR/EIS Sec. 5.2.2, p. 5-37) Water is

especially important for the support and expansion of industrial land use, including the most contemporary growth sectors of industry, high-tech and biotech. Industrial development is fundamental to all other urban growth and development. In support of the critical importance of water to industrial growth note the following three citations:

Nonresidential water use accounts for 53 percent of total water use in U.S. community water supply systems. Of that, over 70 percent is delivered to commercial, industrial, and institutional water users. Moreover, self-supplied commercial and industrial facilities use about as much water as all public and private community water systems put together. (Rocky Mountain Institute, <http://www.rmi.org/sitepages/pid276.php>)

Bayer Corporation's Berkeley facility is the global headquarters for Bayer Biotechnology. The facility houses research as well as manufacturing operations. Currently, the manufacturing plant produces second generation re-combinant DNA technology based drug (Kogenate-FS) to treat Hemophilia The manufacturing operations are complex not only from the technology point of view but also due to regulatory constraints For most of the manufacturing processes, Water is a critical utility. All equipment and rooms are cleaned using water, most of the processes use Water for dilution and formulation of process ingredients. Of course Water does not come for free and requires elaborate water treatment. Also, it has limited life. Hence producing, distributing and storing Water to satisfy various demands is a critical success factor for consistent manufacturing. In the middle of year 2000, the facility started to increase production and Water emerged as a scarce commodity. On one particular day, the production operations had to be halted due to Water unavailability. (from *Proceedings of the 2001 Winter Simulation Conference, BIOTECH INDUSTRY : SIMULATION AND BEYOND*, <http://www.informs-cs.org/wsc01papers/109.PDF>)

The San Diego region has the third largest concentration of biotech companies in the United States. In order to support this growing life sciences industry cluster and to attract new biotech and biomedical firms to choice locations within Chula Vista, the City has established a designated High Tech / Biotech Zone. Part of the EastLake masterplanned community, the Zone offers select companies several benefits, including a series of incentives intended to meet the specialized needs of high-tech and biotech firms [such as an uninterrupted water supply]. (http://www.cvbizsite.org/targetedindustry_biotech.html)

The growth inducement effect of making water available and reliable is all the more true, given the 2001 adoption and January 1, 2002 effective date of State S.B. 221, Calif. Gov. Code Sec. 66473.7: Water suppliers and distributors now are directly and explicitly involved in the determination whether urban development is allowed to proceed, based on the availability of their water supply. Developments may not proceed without the water agencies' determination, making the availability of water a necessity for development as a matter of law, and giving the water agencies an active role in growth management. This Project, in increasing water supplies and/or improving its reliable flow, will make it directly possible for water suppliers to allow growth development. Note that the dEIR/EIS fails to take S.B. 221 into account.

Given this, it seems incredible that the dEIR/EIS concludes that there is no potential growth-inducement impact from this Project. This conclusion is clearly erroneous, as follows.

The dEIR/EIR's conclusion is based on several presented arguments:

- (a) "No additional water would be supplied, and maintenance of current and historic water supply levels does not constitute removal of an existing barrier to growth." This is further explained, "the QSA was negotiated to quantify the amount of water available to *all of southern California* from the Colorado River." [emphasis added] (dEIR/EIS Sec. 5.2.1, p. 5-37) In other words, since the total amount of water drawn from the Colorado River to all of southern California would not increase, there would be no additional water to induce growth.

This argument entirely misses the point of the proposed project: While no additional water from the Colorado for all of southern California would magically be created, a substantial part of that already taken (from an absolute minimum of 130,000 to as much as 300,000 acre-feet per year, dEIR/EIS pp ES-2, ES-3, 1-1, 1-2, et. seq.) would be diverted - from current agricultural use in the Imperial Valley, to the more coastal regions of southern California (coastal San Diego County and, perhaps, the greater Los Angeles/Orange County area). Diversion to these more coastal areas in order to serve urban development is the whole point of the project. This diversion from agricultural use (Sec. 5.2.3.2, p. 5-38) and delivery to urban development districts, inarguably sets the stage for additional urban growth. It does not matter that no net new water would be drawn from the Colorado; what matters is how that water would now be newly distributed to areas where it will, in all reality, encourage urban growth.

- (b) The proposed project "would reallocate the existing water supply to ensure drought reliability of that supply." (dEIR/EIS Sec. 5.2.3.4, p. 5-39) This argument is that the purported use of this newly-diverted water is as drought "insurance," rather than for development purposes.

Notwithstanding this description, there is nothing either within the structure of this project or independent of it which would require, or even encourage, this diverted water to be only, or even partially, for "drought insurance." No provision of statute or of the agreements described as part of the project, and no policy adopted by the San Diego County Water Authority or by its customer water delivery agencies, insures that this project's diverted water, or any other water received by these agencies, shall be used as stockpile to insure against drought "lean years." Indeed, representatives of the San Diego County Water Authority have frankly admitted this to community representatives, including this author. Simply saying that this Project would be for "drought insurance," as does the dEIR/EIR, does not make it so; and ignores the reality that this Project's diverted waters are to be stored for urbanization by the SDCWA (see following item).

(c) The dEIR/EIS further states that "the proposed project would not alter the capacity of MWD's CRA, nor would it entail any expansion of SDCWA's existing water delivery and storage systems;" and "the Proposed Project would not involve any construction in the SDCWA service area, such as new water pipelines or aqueducts that would facilitate population growth or open undeveloped areas to construction." (Sec. 5.2.3.4, p. 5-39) In other words, it is argued, the Project will not induce growth since it will not directly provide additional water storage or delivery infrastructure.

What is not mentioned is that SDCWA is now undertaking, as a separate project, its erroneously-titled "Emergency Storage Project," which is the construction of just such infrastructure. (Ref. SDCWA Web site page, <http://www.sdcwa.org/infra/esp-faq.phtml>) Contrary to its name, the SDCWA Emergency Storage Project will not be restricted to storage or delivery capacity solely for "emergencies." In fact, as admitted by SDCWA representatives, this additional storage and delivery capacity will be available for ongoing urban development. Thus, the diverted water in the IID/SDCWA Transfer Project would feed into SDCWA's expanded capacity, to provide precisely the growth-inducement for increased urban development which the dEIR/EIS tries to say does not exist.

(d) "SDCWA and MWD have entered into the SDCWA/MWD Exchange Agreement to implement the transfer of conserved water to SDCWA Currently, SDCWA purchases all of its imported water from MWD. Under the SDCWA/MWD Exchange Agreement, SDCWA would receive, for use in the SDCWA service area, the same blend of water from MWD that it currently receives from MWD. That is, the blending of Colorado River water with SWP water and other MWD water resources would remain the same, and no measurable change in water quality or quantity would occur in the SDCWA as a result of implementing the Proposed Project and the SDCWA/MWD Exchange Agreement." (Sec. 2.2.5.2, p. 2-40) The dEIR/EIS seems to be saying that the SDCWA/MWD Exchange Agreement would effectively limit the amount of water made available by the Project for urban use, to no more than would otherwise be available.

Frankly, this statement is not clear to the reader, and without clarity on this matter, this EIR/EIS can be considered inadequate (Calif. Gov. Code Secs. 15002, 15003, 15121 et. seq.). That aside, what seems to be said here is that the "blend" of all water from MWD to SDCWA, limited by the Exchange Agreement, has the effect of limiting the quantity of water to be delivered. This is by no means necessarily the case, however. This conclusionary statement is not supported by evidence in the record; we maintain, nothing in the agreements which make up this Project limits the amount of water from other sources that SDCWA

may obtain from MWD. A number of scenarios are reasonably conceivable whereby waters from other sources are made available in amounts not limited by this Project, so as to always guarantee that the total quantity of water is a net increase to SDCWA. Indeed, neither MWD nor SDCWA has restricted the supply SDCWA currently has available from MWD. In these scenarios, the conclusion of no growth inducement by this Project cannot be made, because in fact a net increase in total amount of water would apply.

Nonetheless, let us assume for argument's sake that, somehow, limits would apply such that the amount of water resulting from the Project and other sources, is not a net increase above "past historical amounts." This amount is still hundreds of thousands of acre-feet above the amount of water SDCWA and, perhaps, MWD will receive without this Project. Again, the whole purpose of the Project is to assure and make reliable delivery of water for urban use in amounts to assure that substantial projected growth WILL be achieved (above citation). Once more, this is not just opinion: Per the dEIR/EIS itself, substantial growth projections for San Diego County assume the amount of water needed for this growth will not be restricted (Sec. 5.2.3.4, p. 5-39). Thus, this Project is intended to induce substantial growth by guaranteeing, at minimum, the amount of water needed for that growth, and in more reliable annual amounts. Irrespective of whether the amount of water flowing to urbanizing San Diego would remain the same compared to past "normal years," the important point, and the very purpose of the Project, is to assure the reliable amount of water necessary for this growth. On this point alone, this Project must be concluded to be growth-inducing.

(e) The dEIR/EIS appears to try to argue that land development and growth are exclusively controlled by cities and counties, without regard to the availability of resources such as water, and unaffected by government actions to bring water to urbanization. (Sec. 5.2.2, pp. 5-37 and -38; Sec. 5.2.3.4, pp. 5-39 and -40)

This, again, ignores the reality that the availability and reliability of development-supporting water, the very purpose of this Project, is in fact an inducement to growth. In projecting potential growth, agencies such as SANDAG and SCAG take into account the availability of growth-supporting resources, including water. This argument also ignores the effect of Calif. Gov. Code Sec. 66473.7 (see above), in giving water agencies a direct determination in the approval or denial of development based on the availability of water. Moreover, the dEIR/EIS's own argument supports the finding of growth inducement: The potential growth projected in land use planning, does "not assume significant seasonal or year-to-year

variability in the water supply. Rather, they [growth projections] are predicated on an assumed consistency in water quantity and quality." (p. 5-40) By providing a reliable and an increased volume of development-available water, this very Project is inducing this growth.

Under the dEIR/EIS's own language, there can be applied "two tests to make a growth-inducement determination. First, would the Proposed Project remove a barrier to growth, and second, could the Proposed Project provide additional water for consumptive use, thereby fostering population or economic growth or new construction"? The answer to both of these is yes. The failure of the dEIR/EIS to onclude growth inducement is a blatant shortcoming.

Sincerely,

A handwritten signature in black ink that reads "Craig B. Jones". The signature is written in a cursive style with a large, sweeping flourish at the end.

Craig B. Jones
Principal

CRAIG B. JONES
DDOT PLANNING SYSTEMS +
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San Diego, California 92131
tele.: (858) 695-1998

QUALIFICATIONS

Twenty four years experience in community, city and regional planning including zoning & development review, application processing, environmental review and analyses, coastal permitting, redevelopment and economic development, general and specific planning. Employment with seven California cities and the San Diego region Council of Governments. Management of both current planning (development processing) and long-range planning programs for Southern California cities. Participation in several regional planning programs through the San Diego Association of Governments (SANDAG). Expertise in land use planning; zoning & development administration; environmental analysis; regional & local circulation and transit planning & development; redevelopment & economic development; public facilities and capital facility planning & development.

Expertise in the application of the following land use & planning laws:

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| California State Planning, Zoning & Development Laws | National Environmental Protection Act (NEPA) |
| State Subdivision Map Act | Federal Endangered Species Act |
| California Environmental Quality Act (CEQA) | California Natural Communities Conservation Planning Act (NCCP) |
| California Coastal Act | California "Tanner" Act (Hazardous Waste Management Planning) |
| California State Housing Laws & Regulations | |
| California Redevelopment Law | |

Working knowledge of the following areas of planning & development:

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| Local zoning: use and development regulations | Development project landscaping |
| Development exactions & impact fees | Development project traffic generation & impact assessment |
| Parking requirements, demands & design | Major & minor subdivisions |
| Residential, commercial, & industrial project site layout & design | Traffic & circulation planning & assessment |
| General/master planning | |

- Specific/precise plans
- Planned developments
- Bicycle facilities planning
- Public transit (rail, bus, other) planning & development
- Public facilities planning
- Economic development
- Traffic & circulation modeling & projections
- Development projections
- Growth management
- Redevelopment & economic development
- Coastal permitting
- Local coastal program (LCP) development
- Biological resource impact assessment
- Air quality impact assessment
- Noise impact assessment & planning
- Open space/conservation planning
- Multiple habitat conservation planning
- State & local environmental regulations & processing
- Housing Element development
- Housing programs coordination/monitoring
- CDBG funding, project development & monitoring
- 4(d), 10(a), 401 streambed, other resource agency project permitting
- Public safety & emergency service planning: police, fire, emergency response planning
- Park facilities planning & development
- Capital facilities planning & development
- Intergovernmental coordination/liaison
- Urban design
- Historic preservation
- Code enforcement

EXPERIENCE

April 1994-Present, Owner/Principal, DDOT Planning Systems +

Land use planning, mediation & conflict resolution, and writing consultant services to the public and private sectors. Land use/development analyses; environmental assessments and impact reports. Represent clients to regulatory agencies, facilitate project processing. Coordinate project design & development between client's objectives, marketing needs, regulatory controls, environmental constraints, and community input. Overall project work programming and management. Third-party dispute resolution & facilitation services. Writing/ communications consultant services.

Special Projects: Land use feasibility study & project manage, land purchase & expansion of Pacific Nissan, San Diego, CA. Site analysis to identify jurisdictional control, likely development requirements, and development feasibility. Coordinate between applicant, architect, and City; represent to approval authority. Mediation services through San Diego Mediation Center and independently.

June 1987-April 1994, Senior Planner, City of Encinitas, CA.

Manage Advanced Planning Division of the Community Development Department. Supervise & direct professional staff. Prepare/administer annual Division budget. Prepare & carry out Division project work programs. Administer consultant contracts & services. Liaison with other jurisdictions & agencies; represent City in regional planning programs. Manage adoption & maintenance of City's General Plan. Reports to Community Advisory Boards, Planning Commission, City Council.

Special Projects: Adoption of City's first General Plan and zoning code. Prepare award-winning Downtown Encinitas, North Highway 101 Corridor specific plans including creation of computerized data base, overall project work programming, direction of citizen advisory committees. 1990 comprehensive Housing Element revision. Defense in major General Plan-related litigation. Annual comprehensive General Plan review & revision. Maintenance & update of the Encinitas Traffic Assessment Model & General Plan Circulation Element. Create City's environmental review, 4(d) permit, coastal bluff overlay, and other development review requirements & procedures. Encinitas partnership in north County Commuter Rail light transit service planning & development. Act as Housing Programs Coordinator. SANDAG and regional planning projects: San Diego Regional Open Space Element; San Diego Regional Hazardous Waste Management Plan development & implementation; Regional Energy Plan Technical Committee; Mid-County Transportation Technical Committee; north County Multiple Habitat Conservation Planning (MHCP) and State Natural Communities Conservation Planning (NCCP) programs.

November 1985-June 1987, Senior Planner, City of Imperial Beach, CA.

Manage current planning functions (development review & processing) of the City. Supervise professional, technical & clerical staff. Supervise application processing; staff support to Planning Commission & Design Review Board; production of staff reports and action documentation; environmental and coastal permit processing. Coordinate City departments involved in community development, liaison with other agencies. Represent staff, present reports at Planning Commission, Design Review Board, & City Council meetings. Coordinate & supervise zoning code enforcement program. Produce new City ordinances, policies, administrative regulations & procedures. Interim Community Development Director.

Special Projects: Revise all Department systems & procedures related to current planning/project processing, including clerical procedures; application tracking & processing systems; produce new development applications & applicant information manuals; revise staff report formats. Establish coordination between City departments & outside agencies in development processing & community development. Establish building permit tracking system. Create administrative policy allowing project final occupancy. Produce/administer City Landscape & Irrigation Standards. Produce City ordinance adopting vesting subdivision map allowance. Ongoing area zoning, land use studies. Administer Seacoast Specific Plan implementation. CDBG project administration.

March 1980-November 1985, Associate Planner, City of La Mesa, CA.

Manage assigned current and long-range planning activities; supervise Department personnel in related field work and preparation of reports. Prepare in-house draft/final environmental impact reports (EIRs); coordinate outside consultant services in preparing EIR and other studies from

contract preparation through final product. Represent Planning Department at City Council, Planning Commission, and Board of Zoning Adjustments. Staff support services to Board of Zoning Adjustments. Acting Planning Director in Director's absence.

Special Projects: City-wide mobilehome/trailer park study resulting in establishment of new City policies. Gateway Redevelopment Project manager, including preparation of project area study & justification under State redevelopment law; conduct workshops & hearings; draft/final EIR. City analysis of proposed East County San Diego Trolley extension, resulting in memorandum of understanding between City and MTDB. West-Central Area Specific Plan. Create voluntary City historic preservation policy & program; manage Historic Review Board; liaison with Historical Society. Zoning & Subdivision ordinance revisions. Create & supervise City code enforcement program.

February 1978-March 1980, Assistant Planner, City of El Cajon, CA.

Analyze projects & write staff reports for applications for zone changes, variances, conditional use permits, site development plans, planned developments, specific plans, and tentative subdivision maps. Prepare initial environmental studies per California Environmental Quality Act (CEQA) for private development and City capital improvement projects. Negotiate project design with applicants & designers. Report to Planning Commission & City Council on studies to amend zoning ordinance and General Plan. Annual General Plan review & applications for land use designation amendment. Telephone/counter public contact. As City's environmental specialist, coordinate consultant preparation of EIRs; write in-house EIRs; coordinate processing per CEQA.

February 1976-February 1978, Junior/Assistant Planner, City of Ridgecrest, CA.

Analyze applications & write staff reports for zone changes, variances, conditional use permits, changes of non-conforming use, site plan reviews, planned unit developments. Analysis and prepare reports to Planning Commission & City Council on special studies. Prepare initial environmental studies and EIRs. General public contact. Research & compile data on population & housing. Chair Planning Commission meetings, present reports to City Council.
Special Projects: Land use & housing study, Ridgecrest Heights area. Home occupation amendment to zoning ordinance. Comprehensive research for General Plan update. Analyze, write & produce EIR for off-road vehicle park. International Conference of Building Officials (ICBO) training, plan checking.

January-February 1976, Planning Intern, City of Los Angeles, CA.

Prepare housing section of Human Resources Element of City General Plan.

1975, Planning Intern, Comprehensive Planning Organization for the San Diego Region (CPO), San Diego, CA.

Data research & writing for Regional Energy Resources and Allocation element of the Regional Plan. Work on: Regional Capital Facilities Improvement program; Regional Traffic Network development; Regional Industrial Center/Activity Center Coordination program.

1974, Planning Intern, City of San Diego, San Diego, CA.

Research & write Grantville Precise Plan study. Zoning research for Sorrento Valley industrial section of Torrey Pines Community Plan. Generate data for computer traffic volume forecast study. Research, prepare & write demographic/housing background analysis and Public Facilities element of final Ocean Beach Precise Plan. Research for Gaslamp Planned District study. Research for San Diego Design Manual (Kevin Lynch-Don Appleyard study). In-house analysis of Departmental growth.

EDUCATION

San Diego Mediation Center, November 1995, award of Mediator Credential; June 1994, Intermediate Mediation Skills Training; July 1993, Mediation Skills Training

International Conference of Building Officials, September 1976, Short Course in Plan Examination

San Diego State University, 1973-'75, post-graduate study, Urban History/Planning. Published, critique of *The Urban Future*, Ely Chinoy, ed.

University of Southern California, B.A. 1972, U.S. & Urban History major, German minor. Magna Cum Laude; Dean's List seven semesters. Phi Beta Kappa and Phi Kappa Phi academic honor societies.

MEMBERSHIPS & AFFILIATIONS

American Planning Association - Member 17 years; periodic committee memberships, California Chapter, San Diego Section

Scripps Ranch Community Planning Group - Board of Directors, 1994-2000; Chair, New Developments/Environmental Subcommittee, 1994; Board Chair, 1995; City of San Diego Community Planners Committee representative, 1995-'96

North San Diego County Multiple Habitat Conservation Planning (MHCP) Advisory Committee, 1992-1994

Member, San Diego Zoological Society