



March 14, 2019

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
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Sacramento, CA 95814  
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RE: Salton Sea

Dear Members of the State Water Resources Control Board:

On behalf of Alianza Coachella Valley, Audubon California, Defenders of Wildlife, Environmental Defense Fund, KDI, the Pacific Institute, and the Sierra Club, we write to submit our comments regarding the progress of Phase 1 of the Salton Sea Management Program (SSMP), pursuant to the Board's Notice of Public Workshop dated February 15. We have yet to receive or review the state agencies' report to the Board pursuant to Order WR2017-0134; we will submit our comments on that report subsequently.

We thank the new Board Chair for making his first official trip out of Sacramento to the Salton Sea. We, along with many others, greatly appreciate the actual and symbolic importance of this effort and look forward to continuing to work with you, along with the other members of the Board, on this critically important issue for the State of California. In particular, we welcome the two new Board members to the effort, and the important perspective and insights they will bring to the challenge.

The new Administration's demonstrated interest in the Salton Sea encourages us greatly. Last April, the new Governor visited the Salton Sea and noted that the state had a "debt to this community to do more to address the issues and crisis that is looming," and asked to be held accountable for meeting state obligations to the Salton Sea. The new Secretary of the Natural Resources Agency's February trip to the Salton Sea, his familiarity with the Sea, and his willingness to work directly with stakeholders and landowners to resolve outstanding issues and challenges marks a significant change from previous administrations and may well signal the political will necessary to move the SSMP from vague plans to actual projects on the ground. Department of Water Resource's (DWR) commitment to hire new staff for the Salton Sea program, as well as recent hires at the Department of Fish and Wildlife (DFW), suggest that the agencies are turning a corner and may be on track to finally have staff commensurate with the scale of the problem and required effort. Similarly, we are hopeful that the Board will continue to demonstrate the oversight and attention necessary to fulfill the state's obligations to the Salton Sea.

We strongly support the creation of a North Lake and are encouraged by recent progress in developing a North Lake concept. As described in the attached January 10 letter to the Salton Sea Authority, we believe a North Lake can offer many benefits, if it satisfies the design criteria and objectives described in the attached letter. We encourage you to ask the following questions of the state agencies and the Salton Sea Authority at the March 19 workshop:

- How will the costs – including operations & maintenance costs – for the North Lake project be divided between the SSMP and local proponents? To what extent will the availability and demonstrated commitment of local funding inform project design and selection?
- What is the schedule for the North Lake project? How quickly can it be designed and constructed?
- What is the community engagement strategy for the North Lake project and related EIFD? How will the agencies ensure that an equitable process is put in place that results in multi-beneficial infrastructure for community members of the Eastern Coachella Valley?
- How will the agencies ensure that there are necessary staff and resources to address both the North Lake project and the projects on the south end of the Salton Sea?
- How will the lead agency for the project be determined, and what oversight will state agencies (including this Board) have over project implementation and management?

As we did for the October, 2018 workshop, we request that the Board ask the state agencies the following questions at the March 19<sup>th</sup> workshop:

**When will easement issues between the State and IID be resolved? How do the State and IID propose to avoid additional delays due to these issues in the future? Will the parties agree to third-party facilitation to resolve current or future property rights disputes?**

The failure of the State and IID to resolve liability and easement issues has contributed to years of delays and significantly eroded confidence in the State's ability to advance the SSMP. Our NGOs and others have offered to assist by providing professional third-party facilitation or mediation to help resolve this impasse. Both the State and IID have rebuffed these efforts and repeatedly implied for more than a year

that resolution is imminent. However, the issues related to Species Conservation Habitat (SCH) and other projects remain unresolved and future projects are threatened by similar disputes. We ask that the Board question the State and IID on the status of these negotiations and recommend the parties issue a near-term deadline by which the issues will be resolved or, in the alternative, that they agree to third-party mediation to facilitate agreement with a deadline for issue resolution.

We strongly encourage the Board to set a May 1<sup>st</sup> deadline for resolution of the easement and liability issues for the SCH project. It is our understanding that if the May 1<sup>st</sup> deadline is missed, it could delay the SCH project by another year due to the State's contracting processes. Therefore, we also encourage the Board to request that the State and IID commit to a timeline of work leading up to May 1<sup>st</sup> and how the parties will stay on track to meet the deadline (e.g., regular check-ins, weekly updates to the Board, etc.). If the parties fail to submit documentation demonstrating completion of easement and liability agreements by this date, the Board should name a mediator to resolve the dispute. We will supply a list of potential mediators to the Board by April 15<sup>th</sup>, and can arrange for funding to cover their costs.

**What is the status of engagement efforts for the different SSMP projects, and how is the State working with on-the-ground organizations to include residents in these efforts?**

The Salton Sea provides a clear and unique opportunity to construct multi-beneficial infrastructure that serves the communities around the Sea, creating long term buy-in and stewardship. To our knowledge, there are some community meetings happening in the southern portion of the Sea, but no overall engagement strategy or plan for how community input will concretely shape the projects. The State should designate a lead staffer for community outreach and it should be someone with the appropriate capacity, experience, and skillset to meet the State's outreach and engagement goals.

We ask that this board put a deadline of establishing an engagement strategy for each existing SSMP project by May 15, with a designated budget, and a plan for how community design parameters can be integrated into each project to produce projects that create a truly resilient Sea that is developed in conjunction with on-the-ground organizations. We would also encourage this board advocate for inclusion of community amenities upfront in all built projects, and as a clear and necessary portion of the design concept and planning process.

**What tasks have been assigned to SSMP consultants and where is the timeline for their completion? When will the hydrological model be produced? What is the source of delays?**

Public confidence in the SSMP is further eroded because mission critical key products, such as a hydrological model for the Salton Sea, have not yet been produced despite years of promises. The model is a foundational piece for progress on projects. Overall, it is unclear what tasks have been assigned to consultants and what are their deadlines. We ask that the Board request an update on the hydrological model and a list of other tasks and timelines assigned to the SSMP's consultant. We further ask that the Board set deadlines, within the next three months, for the finalization of the hydrological model.

**What is contributing to delays in permitting? Is there a timeline for resolving federal permit issues?**

It is our understanding that, while inter-agency cooperation has improved between state agencies, there remain delays due to permitting from the US Army Corps of Engineers (Army Corps). We ask that the Board request an update from the State regarding federal permitting, including identification of sources of potential delays and a timeline for their resolution. Further, we ask that the Board ask the Army Corps to appear at the next State Board meeting to provide an update on the pending federal permits. Finally, we ask that the State Board ask the State about whether a master permitting effort at the Salton Sea makes sense and how would the State implement one. If such a master permitting effort makes sense, the State Board should request that the State provide an explanation of the design and implementation of such a master permitting.

**What is the plan for the management of SSMP projects, once they have been constructed?**

As noted below, SSMP planning efforts do not provide for the continued operation or adaptive management of projects once they have been constructed. The August 2018 draft of the SSMP Phase I: 10-Year Plan (posted at <http://resources.ca.gov/wp-content/uploads/2018/10/SSMP-Phase-1-10-Year-Plan.pdf>) does not describe the entity responsible for ensuring that the constructed projects function as designed (it also has not been proofread). Given the uncertainty of how these projects will perform to address the impacts to air quality and wildlife from the receding Sea, it is essential that the SSMP projects have a robust and fully funded adaptive management program. The Board should set a deadline for the State to complete an adaptive management plan before the completion of the first SSMP project.

**What is the status of funding sources and for planning for ongoing operations and maintenance?**

The Salton Sea Management Plan appears to have adequate funding to initiate construction of projects. Proposition 1 provided more than \$80 million and the recently-passed Proposition 68 will provide \$200 million once appropriated. The California Legislative Analyst's Office recently estimated that over the past 18 years more than \$700 million in public funds has been committed to the Salton Sea, of which approximately \$500 million remain including more than \$50 million of Salton Sea Restoration Limit funds from the QSA parties that could be used for operations and maintenance and other annual costs. Yet, despite a considerable operating budget, the SSMP struggles to get funding out the door to projects or contractors. To our knowledge, only \$3 million of Proposition 1 funding have been spent so far and there appears to be no plan for distribution of the Proposition 68 funds. We are concerned that the Proposition 1 funds may be reallocated if they are not encumbered by the SSMP soon. Moreover, ongoing operations, monitoring, and maintenance will likely require an estimated \$10 million annually, which cannot be sourced from bond funds. We ask that the Board request an update on the SSMP's finances, assurances that Proposition 1 dollars will not be reallocated, and a detailed response of how the State will secure the necessary ongoing funding for long-term monitoring, operations, and maintenance.

**What is the status of the Salton Sea Task Force?**

Does the Salton Sea Task Force still meet? To what extent do the Natural Resources Agency, DWR, and DFW coordinate with other state agencies such as CalEPA, California Air Resources Board, California Energy Commission, Public Utilities Commission, and the Colorado River Regional Water Quality Control Board?

**What is the status of meeting the commitments made by the State and the Federal government in the 2016 Memorandum of Understanding?**

In September 2016, the State of California and the Federal government executed a memorandum of understanding (MOU), which pledged greater cooperation between the agencies, an expansion of scientific and monitoring efforts at the Sea, and a commitment of \$30 million in federal funding for projects and operations and maintenance needs. We encourage the Board to ask for an update from the State and federal partners about the status of meeting those commitments and, for those unmet, the barriers preventing achievement of the MOU goals.

**Conclusion**

The SWRCB, along with the State of California and a host of stakeholders, have been grappling with the challenges posed by the Salton Sea for the better part of two decades. The past several years have brought hundreds of millions of dollars to the table, along with initial draft plans and the beginnings of a dedicated staff sufficient to tackle the problem. The SWRCB's Order WR2017-0134, in November, 2017, was an important marker in this slow process, setting much-needed milestones to establish accountability. The new state Administration's demonstrated interest in the Salton Sea could well offer the last important piece of the puzzle: the political will needed to implement plans and bring them into operation.

We stand ready to assist the State and the SWRCB in any way we can to assist these efforts and to – finally – witness the construction and operation of SSMP habitat and dust projects at the Salton Sea.

Thank you for your continuing oversight.

Sincerely,



Michael Cohen  
Senior Associate  
Pacific Institute



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California Program Director  
Defenders of Wildlife



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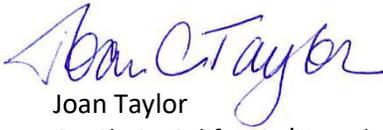
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Cc: Bruce Wilcox  
Genevieve Johnson, Bureau of Reclamation  
Phil Rosentrater, Salton Sea Authority

**Attachment:** January 10 letter to Salton Sea Authority in support of North Lake



January 10, 2019

Phil Rosentrater  
Executive Director  
Salton Sea Authority  
82995 Hwy 111, Suite 200  
Indio, CA 92201

**RE: Proposed North Lake Project**

Dear Mr. Rosentrater:

On behalf of Alianza Coachella Valley, Audubon California, Defenders of Wildlife, Environmental Defense Fund, Kounkuey Design Initiative, Pacific Institute, and Sierra Club California, we encourage the Salton Sea Authority (Authority) to expedite the implementation of a North Lake plan for the Salton Sea. We also offer comments and suggestions on the proposed North Lake concept that was briefly summarized at the [June 12<sup>th</sup>](#) and [November 13<sup>th</sup>](#) meetings of California's Salton Sea Management Program (SSMP) 10-Year Plan Committee. As we have noted previously, a North Lake could offer a host of habitat, recreational, and economic development opportunities and should be pursued. A North Lake project also offers the Authority the opportunity to lead on a local project.

As you know, time is of the essence. More than three years have passed since Governor Brown established acreage milestones with his Salton Sea Task Force Agency Actions, yet the state still has yet to construct a single acre of habitat at the Salton Sea. The SSMP has also failed to achieve the

acreage milestone established by the State Water Resources Control Board's [Order WR 2017-0134](#). This inaction does not occur in a vacuum. Since the signing of the Quantification Settlement Agreement in 2003, the salinity of the Salton Sea has increased by more than a third while its surface has dropped by more than eight and a half feet, exposing more than 20,000 acres of lakebed. Populations of fish-eating birds such as pelicans and cormorants have plummeted, while dust emissions have increased, harming the people that live downwind from the Sea.

Fortunately, last June, California voters approved \$20 million for the Authority to construct Salton Sea projects, affording a real opportunity for the Authority to demonstrate leadership and competence and build functional projects at the Salton Sea.

We encourage you to act quickly on this opportunity. Please include a report at the January 24 Authority Board Meeting describing a general planning and construction schedule for a North Lake and a conceptual budget for expending the \$20 million authorized by Proposition 68, as well as other funds currently available to the Authority. We also encourage you to include a report on the status of the North Lake Plan at the January 24 Board Meeting, toward an action item at the February 21 Board Meeting on a preferred alternative and a schedule for project design and implementation. This is an excellent time to demonstrate that the Authority can act decisively on behalf of the Salton Sea, expediting consideration and implementation of the North Lake vision championed by Supervisor Perez a year ago and reviewed by Riverside County in the summer of 2017.

We encourage you to incorporate the following recommendations into the formation of the North Lake Plan:

- **Lake elevation** – The North Lake plan should maximize lake elevation, to increase surface area and depth and to better provide a water supply for other projects. Presumably, the design elevation could be -226.0' (NAVD 1988), roughly the Salton Sea's elevation in 2003. A North Lake should include deep (~10') water habitat for primarily fish-eating birds, such as pelicans and cormorants. A target elevation of -226.0' would rewet exposed playa, help capture drain flows that might otherwise be lost to evaporation and vegetation, and minimize the need to extend existing roads to access the North Lake. Additionally, a higher elevation North Lake could more readily supply water to refill the marinas of shoreline communities to the south.
- **Inflow sources & quantities** – The North Lake should be sized to optimize the capture of Whitewater River baseflows, and as much flood flow from the river as can be captured at reasonable cost. The SSA should task its consultant with determining average annual Whitewater River baseflows and estimating what additional construction costs would be required to capture flood flows. The consultant should also describe the tradeoffs between routing flood flows through the North Lake versus diverting baseflows plus some portion of flood flows into the lake. Any North Lake plan should include the projected water demand for the lake, and an annotated list of sources to meet this demand.

- **Capture and Recharge** – The Authority should work closely with the Coachella Valley Water District (CVWD) to expand CVWD’s floodwater recharge program, benefitting the region’s aquifer and increasing reliable baseflows to the North Lake. Such an approach might be able to leverage additional federal infrastructure funding and expertise. Close coordination with CVWD will also avoid potential conflicts with CVWD’s updated Stormwater master plan or construction of new wastewater recycling facilities.
- **Salinity** – We do not believe the North Lake plan should set specific salinity objectives or targets. Since the state’s preference for higher-salinity water is mainly intended to avoid selenium biomagnification and since selenium should be less of a concern given low-selenium Whitewater River flows, the North Lake should avoid the significant capital and operations costs of pumping remnant Salton Sea water to manage salinity. Instead, the North Lake plan should simply use raw river water to sustain the North Lake. Discharge from the Lake could then be used downgradient to support additional habitat and dust control ponds.
- **Selenium** – The use of lower-selenium Whitewater River flows should be prioritized. Use of drain water with selenium concentrations greater than the 3.1 ppb (identified in the draft EPA criteria) should be avoided. Additionally, please refer to Agrarian’s sediment map (attached), to avoid siting the North Lake atop high-selenium sediments.
- **Torres-Martinez Desert Cahuilla Indians** – The Tribe must be an integral part of the planning process, given their extensive property in the project area. The Tribe might also be able to supply rock for the North Lake impoundment structure.
- **Community Amenities** – The Authority should include community amenities as part of the concept and design of the North Lake to maximize the opportunity for public access and stewardship. These amenities should be developed in conjunction with residents of the Eastern Coachella Valley, and should be included as part of the first phase of the project build-out.
- **Resident Engagement** – The Authority should work with closely with local community groups and residents throughout the design, planning, and construction process. A dedicated engagement budget and strategy that is developed upfront is necessary to serve as a roadmap for outreach and engagement decisions, and opportunities for participatory budgeting should be included within the engagement process.
- **Public Access** – The North Lake plan should designate public access along much of the shoreline and in a portion of the deeper-water lake, but restrict public access near the delta and in a portion of the lake (perhaps 50% of areas deeper than three feet) to offer a refuge for fish and birds.
- **Costs** – The North Lake plan should clearly describe the estimated capital and annual costs associated with different Lake configurations.

Thank you for your consideration of these recommendations and suggestions. We strongly support a viable North Lake project and stand ready to work with you to expedite its funding and implementation.

Sincerely,



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California Program Director  
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CA Political Director, Ecosystems  
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Joan Taylor  
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