



October 24, 2002

State Water Resources Control Board  
c/o Victoria Whitney, Program Manager  
Hearings & Special Project Section  
Division of Water Rights  
P. O. Box 2000  
Sacramento, CA 95812-2000

Re: ***Salton Sea Authority's Comments on September 26, 2002 Draft Order In the Matter of Amended Joint Petition of the Imperial Irrigation District and San Diego County Water Authority for Approval of a Long-Term Transfer to Conserve Water***

Dear Sirs and Madams:

As noted in the Salton Sea Authority's October 11, 2002 comment letter, the Authority believes that the water transfer should be required to fully mitigate its impacts. To the extent that there is uncertainty regarding the magnitude of those impacts, and the feasibility of mitigating those impacts, prudence requires that the SWRCB err on the side of caution so that the health and welfare of Imperial and Coachella Valleys' residents are not unduly prejudiced and irretrievable and valuable natural resources are not unnecessarily lost.

Unfortunately, under the revised draft order, the residents of the Imperial and Coachella Valleys and the Salton Sea's internationally important natural resources bear the risk of petitioner's inability to successfully mitigate impacts.

Generally speaking, the order requires that petitioners do what they reasonably can to mitigate impacts; but if they are unable to do so, the impacts are overridden. That is a formula for mitigation failure. Transfer proponents will unlikely diligently pursue successful mitigation, if failure is pre-excused.

Instead, the Authority believes that the risk of mitigation failure should be borne by the transfer. The order should require that transfer-related impacts be mitigated to a level of insignificance. If, after appropriate studies have been completed and mitigation strategies tested, impacts prove to be significant and mitigation proves infeasible, the

desirability of the transfer should be re-evaluated. Findings of overriding consideration, particularly when those findings concern questions of human health and the preservation of critical natural resources can only properly be made when the extent of impacts are known, and reasonable alternatives and mitigation strategies have been exhausted.

Of particular concern to the Salton Sea Authority is the 15-year limitation on mitigation of impacts to the Sea. That limitation may well have the unfortunate consequence of establishing an expectation that the Sea will die after 15 years, making efforts to marshal the political will to restore the Sea considerably more difficult. At the very least, the SWRCB should require that prior to the discontinuance of the Sea's life support system - the replacement water - there be supplemental environmental documentation regarding the magnitude of impacts and the success of mitigation of impacts to air quality and the sea's natural systems, and the feasibility of a restoration project. Furthermore, the replacement water requirement should at least meet the standards of the final environmental impact report to ensure that the viability of a restoration project is not inadvertently compromised in the interim by the transfer project.

The order requires that petitioners provide replacement water to stabilize the elevation of the Sea in order to mitigate impacts on fish, wildlife, and air resources. Implicit in that requirement is a finding that the use of water to maintain the Sea's elevation is a reasonable and beneficial use. The Authority requests that an explicit finding to that effect be included in the order to obviate any future dispute on that issue.

The water transfer is an experiment. There is much unknown at this time regarding the scale of the impacts and petitioner's ability to mitigate those impacts. The fundamental question is, who should bear the risk of failure to those efforts? In the long run, San Diego has alternative sources of water. The migrating birds of the Pacific fly way have already lost their alternatives to the Salton Sea, the neighbors of the Sea do not have alternative homes, nor do the residents of the Imperial and Coachella Valley have alternative sources of healthy air.

The Salton Sea Authority respectfully requests that the environment of the Imperial and Coachella Valleys not be unduly jeopardized by the uncertainties surrounding the transfer project.

Sincerely,

[Original Signed]

Tom Kirk  
Executive Director  
Salton Sea Authority