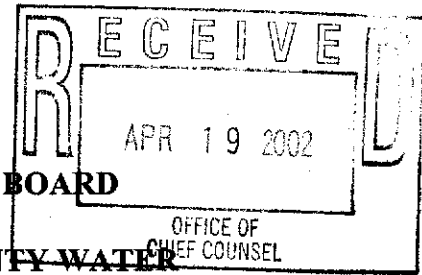


**CVWD'S POLICY STATEMENT
BEFORE THE STATE WATER RESOURCES CONTROL BOARD
HEARING ON AMENDED JOINT PETITION OF
IMPERIAL IRRIGATION DISTRICT AND SAN DIEGO COUNTY WATER
AUTHORITY FOR LONG-TERM TRANSFER
APRIL 22, 2002**



My name is GERALD D. SHOAF; I am a partner in REDWINE AND SHERRILL, Attorneys for Coachella Valley Water District, and serve as the District's General Counsel.

Thank you for this opportunity to present Coachella's perspective and position regarding the Amended Petition seeking this Board's approval of the proposed Imperial Irrigation District-San Diego transfer.

As you know, Coachella initially protested the proposed transfer but ultimately entered into a Protest Dismissal Agreement with Imperial Irrigation District and the San Diego County Water Authority and now fully supports the proposed transfer subject to the terms of the Protest Dismissal Agreement.

My purpose here today is to make four points that explain Coachella's change in position, briefly supporting the points with pertinent information. The four points are these:

- 1st: Coachella has a right to the water proposed to be transferred to San Diego.
- 2d: Coachella recognizes the importance of the proposed transfer.
- 3d: The Quantification Settlement Agreement between Imperial Irrigation District, Metropolitan Water District and Coachella Valley Water District includes the proposed transfer as a key element but also addressed Coachella's water needs in such manner that the transfer will not harm Coachella.
- 4th: Coachella does not believe that this Board has jurisdiction over the proposed transfer or that its approval is necessary. Nevertheless, Coachella has withdrawn its opposition on the terms set out in the Protest Dismissal Agreement, principally that the Board's approval, if given, would not serve as precedent regarding any other proposed transfer of Colorado River water, and that such approval would be co-extensive with the effective "life" of the Quantification Settlement Agreement.

The support for these points is as follows:

First, Coachella's fundamental position is that it has a right to use the water proposed to be transferred by Imperial under the federal "Law of the River" which governs Colorado River water rights. Congress established a comprehensive statutory system for the allocation of Colorado River water in the Boulder Canyon Project Act. That system has been fully implemented by the Secretary of the Interior through a series of contracts with the water users. In California, the water users entered into the Seven Party Agreement that prioritizes the water use among the California agencies in a "cascading" fashion; water not needed by one is available to the next in line. The Secretary incorporated the entire Seven Party Agreement into each California agency delivery contract, including IID's.

According to the United States Supreme Court in Arizona v. California (373 U.S. 546 at 564), this constituted a complete displacement or pre-emption of state law by the federal law concerning the allocation of California's share of Colorado River water. Such displacement was specifically recognized by Congress in its 1988 San Luis Rey Indian Water Rights Settlement Act (P.L. 100-675, 102 stat. 4000, 4005, §201).

The California priority system reflected in IID's contract with the Secretary, along with a separate agreement between Coachella and Imperial known as the Compromise Agreement, requires that water that IID does not put to beneficial use in its service area is to be made available to Coachella. IID's contract with the Secretary is the only means by which IID can obtain Colorado River water; that contract makes no provision for transfers even if the water is made available through conservation. State law cannot change that.

Nevertheless, and moving on to our second point, Coachella fully understands the critical role that the proposed transfer will play in the future water supply picture for the West, for the entire State, and especially for Southern California; if it doesn't take place, the Quantification Settlement Agreement will fail. Coachella believes that would be highly destabilizing to the State's water supply and its economy. The transfer will both enable the State to eventually live within its Colorado River apportionment of 4.4 MAF and avoid increasing pressure on the Sacramento-San Joaquin Delta to provide make-up water. Coachella thinks the transfer simply has to happen.

The background for Coachella's third point is that the Quantification Settlement Agreement is what allows the transfer to happen. Under that Agreement, Coachella's water needs will be met for the life of the Quantification Settlement Agreement so that Coachella will, in effect, be benefited rather than harmed by the proposed transfer. Coachella will not lay claim

to that water, but will allow it to flow to and through Metropolitan Water District and ultimately to San Diego. Coachella will end up paying for water that it should receive without charge, but the District has come to accept that fact as the price of an assured, reliable water supply.

The support for our fourth and last point is that although Coachella filed a formal protest to the Petition, we have worked out an arrangement with Petitioners Imperial Irrigation District and San Diego County Water Authority and that has allowed us to dismiss our protest. We protested because we do not believe that the State Board has the authority or jurisdiction under California law to authorize the proposed transfer of Colorado River water. We believe that the Colorado River is a federal river that is beyond state control insofar as appropriative rights are concerned, and that in signing the contract with the Secretary, IID basically traded its pre-existing state rights to the water for the more reliable federal contract rights which give it stable guaranteed supplies immune from drought and flooding by virtue of the federal dams and storage resulting from the Boulder Canyon project Act. California law regarding allocation of Colorado River water has been preempted by federal law.

However, IID and San Diego made State Board approval a condition of the transfer. In recognition of the absolute necessity for the transfer to occur, Coachella determined that if this one transfer could take place (1) without establishing a precedent regarding the application of state law to any other proposed transfer of Colorado River water, and (2) under circumstances where this Board's approval, if given, would only last while the QSA is in effect, then Coachella would withdraw its opposition and in fact would support the Petition.

The Protest Dismissal Agreement is expressly based upon those two conditions, no precedent and State Board approval coextensive with the QSA.

In summary, even though Coachella believes it has a right to the water that IID proposes to transfer to San Diego, and believes that this Board has no jurisdiction over the transfer, since the QSA will satisfy Coachella's water needs to the point where the transfer will not harm Coachella and in fact will result in supply reliability for Coachella, Coachella has withdrawn its opposition on the conditions set forth in the Protest Dismissal Agreement. On that basis, Coachella joins with the Imperial Irrigation District, the San Diego County Water Authority, and Metropolitan Water District in requesting State Board approval of the Amended Petition herein, based on the specific findings set forth in the Protest Dismissal Agreement.

Thank you again for this opportunity to set forth Coachella's position in the matter.