

DEPARTMENT OF FISH AND GAME

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April 19, 2002

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

Re: IID/SDCWA Petition

Dear Mr. Peltier,

Enclosed for your files is the Department of Fish and Game's Policy Statement for the IID/SDCWA hearing, to be held April 22, 2002. This statement was faxed to your attention on April 19, 2002. Please contact me at (916) 653-3781 if you have any questions.

Sincerely,

Juliet Virtue
Staff Counsel

cc: Robert C. Hight
Michael R. Valentine

**TESTIMONY OF ROBERT C. HIGHT, DIRECTOR,
CALIFORNIA DEPARTMENT OF FISH AND GAME
Before the State Water Resources Control Board
Monday, April 22, 2002**

The California Department of Fish and Game (Department) appreciates the opportunity to provide testimony for this hearing on the issue of the Imperial Irrigation District (IID)/San Diego County Water Authority (SCDWA) Long-Term Transfer of Conserved Water (Transfer).

The Department's Role

As the State's trustee of natural resources, the Department has a vital interest in the Water Transfer and its effect on the habitat and species of California. The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species.

As you are aware, California has a contractual right to 4.4 million acre feet of water from the Colorado River. However, for many years California has used about 5.2 million acre feet, relying on unused waters of Arizona and Nevada for the additional 800,000 AF. Secretary Babbitt negotiated a settlement that allows California to reduce its use of the additional 800,000 AF of Colorado River Water over the next 15 years.

The California Plan has been developed to allow the State to live within its 4.4 MAF apportionment. This plan involves the planning, permitting, and implementation of various water conservation, transfer, and storage projects and programs. To date, State and federal agencies have been working closely with the affected water agencies on numerous complex legal and environmental documents needed to implement the plan. The Department is committed to continue to work with the affected water agencies to issue necessary permits in a timely manner.

Fully Protected Species

The Transfer will impact some fully protected species. Under State law, the Department is precluded from authorizing the take of fully protected species. Currently, State legislation is being considered to resolve this issue. The Department supports a legislative solution.

California Endangered Species Act (CESA)

The Transfer will affect endangered, threatened or candidate species along the Lower Colorado River, in the Imperial Valley, and at the Salton Sea. This portion of the Lower Colorado River supports several hundred species of wildlife. Over 100 of those species are special status species. It is the Department's role to ensure that for any listed species which are taken, the water agencies will minimize and fully mitigate for the take of those species. If threatened or endangered species will be taken, an incidental take permit will be necessary.

Various species using the Salton Sea and the surrounding environment, including agricultural lands, will also be impacted. More than 400 species of birds have been reported in the area. During the winter, hundreds of thousands of water birds, shore birds, and migratory waterfowl utilize the Salton Sea and its associated wetlands. These include white and brown pelicans, black skimmers, double-crested cormorants, mountain plover, and the Yuma clapper rail. The Salton Sea is considered to be of regional or national importance to various species groups, including pelicans, cormorants, wading birds, shorebirds, gulls, and terns. The only native fish species, the desert pupfish, is found in the shoreline pools and irrigation drains leading to the Salton Sea. Some of these species are fully protected and listed under state and federal law. The Sea also supports one of California's most significant recreational fisheries and is important to the regional economy, providing an estimated 2.6 million recreation days annually.

The Salton Sea receives about 1.3 million acre-feet annually of agricultural drain water. Agricultural water conservation measures, which are part of the Transfer, will reduce inflow of water to the Salton Sea. The reduced inflow will impact the ecosystem of the Salton Sea, particularly the food supply for fish-eating birds. Although the Sea is naturally becoming more saline, with the Transfer, the Sea will become saltier more quickly. Without the Transfer, fish may stop reproducing in six to ten years, and fish life will disappear in approximately 20 years. With the Transfer, it is estimated that fish life may disappear approximately eleven years sooner.

In order for the Department to issue an incidental take permit to allow the take of listed species at the Salton Sea, the water agencies must minimize and fully mitigate the effects of any impacts on listed species which result from the Transfer. A public draft of a document that addresses these issues related to the water transfer was released in January of this year. The document was a Draft EIR/EIS and also contained a Habitat Conservation Plan (HCP). The Draft EIR/EIS portion of the document dealt with impacts and avoidance and mitigation measures for listed and unlisted species in the lower Colorado River, Imperial Valley and at the Salton Sea. The HCP addresses, with more specificity, the impacts from activities associated with water conservation, avoidance and mitigation measures, adaptive management and funding, only for the 96 listed and unlisted species found in Imperial Valley and Salton Sea.

The Department has been working with the Water Agencies to better define the impacts and strengthen the mitigation for the lower Colorado River, Imperial Valley and Salton Sea. This additional information, which will be included in the final environmental document, will provide more clarity about avoidance and mitigation measures that have been proposed and will describe how the Water Agencies will fully mitigate the impacts of the proposed project.

With respect to the Salton Sea, the Department, the U.S. Fish and Wildlife Service, and the Water Agencies have developed a phased mitigation plan that includes a fish hatchery and forage ponds for fish-eating birds. The hatchery would be built first as the Sea becomes too saline for fish to reproduce and would provide fish to be planted in the Sea for some years, until the Sea becomes too salty for fish to survive. When the level of salinity is reached at which fish can no longer survive in the Sea, then the foraging ponds for fish-eating birds would be established. This phased plan will provide mitigation for the impacts to the recreational fishery and to fish-eating birds, including fully protected and listed species, for this project only. It is not the long-term solution to the Salton Sea's problems. However, the phased mitigation does buy the Sea some time; so that it can be determined what actions Congress and the State may take towards maintenance of existing biological, recreational, and economic values at the Sea.

Restoring the Salton Sea (maintaining the current salinity and elevation) will require action and major financial commitment by Congress and the State. In 1998, Congress directed the Bureau of Reclamation to prepare a report on the alternatives for saving the Sea. The report was due in 2000. However, the Bureau has yet to finish this report. The next draft of the report is to be released soon and made final by the end of this year. Thus, Congress is unlikely to take action regarding the Sea for at least a few years. With each year that passes, restoration of the Sea becomes more difficult, and most likely more expensive. If the water transfer occurs without restoration, the Sea elevation will drop dramatically and will likely cause air quality problems. Cost estimates to restore the Sea range from \$.5 to \$1.5 billion. The less expensive options require fallowing of lands in IID.

In conclusion, the Department would like to emphasize its commitment to continuing to work with the water agencies to resolve the issues which remain. The Department recognizes the importance of the transfer, and will work with the other stakeholders to resolve any outstanding issues.