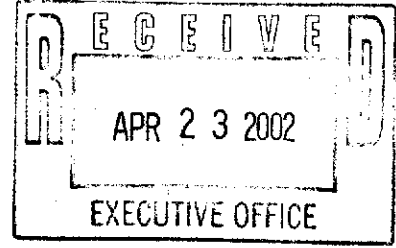


#24

e

ENVIRONMENTAL DEFENSE
finding the ways that work



April 18, 2002

Arthur G. Baggett, Jr. Chair
State Water Resources Control Board
1001 I Street, 25th Floor
Sacramento, Ca 95814

**Re: Petition of Imperial Irrigation District and San Diego County
Water Authority for Approval of Long-Term Transfer of Conserved Water**

Dear Mr. Baggett and Members of the SWRCB:

Enclosed is a letter that Environmental Defense has submitted to the Imperial Irrigation District and U.S. Bureau of Reclamation in connection with their draft EIR/EIS on IID's Water Conservation and Transfer Project.

Please accept this letter as Environmental Defense's Policy Statement in the above-entitled matter.

Thank you.

Sincerely yours,

Thomas J. Graff
Regional Director

TJG:ypc

Enc.



ENVIRONMENTAL DEFENSE

finding the ways that work

April 18, 2002

Bruce D. Ellis
Bureau of Reclamation
Phoenix Area Office (PXAO-1500)
P.O. Box 81169
Phoenix, AZ 85069-1169

Elston Grubaugh
Manager of Resources
Imperial Irrigation District
P.O. Box 937
Imperial, CA 92251

**Re: Imperial Irrigation District Water Conservation and Transfer Project
Draft Habitat Conservation Plan: Draft EIR/EIS**

Gentlemen:

Environmental Defense supports the Imperial Irrigation District's Water Conservation and Transfer Project (WCTP). Environmental Defense supports the Quantification Settlement Agreement (QSA). Environmental Defense supports the Bureau of Reclamation's Implementation Agreement (IA).

Our support for these projects and agreements derives from our long-standing endorsement of the concept of "Trading Conservation Investments for Water", the title of a report the Environmental Defense Fund published in 1983. The cover page of that report is reproduced as Attachment 1 to these comments, as is the report's Foreword (Attachment 2), written by Harvey O. Banks, the Director of the California Department of Water Resources, 1956-61.

California needs to reduce its diversions from the Colorado River. The historic priorities within California to Colorado River water require adjustments of the sort adopted in the WCTP, the QSA, and the IA. Voluntary compensated transfers of water are clearly preferable to an alternative in which reductions in California's Colorado River water deliveries would simply follow the historic priorities. Voluntary compensated transfers are also clearly preferable to an alternative in which regulatory and/or management

Bruce D. Ellis
Elston Grubaugh
April 18, 2002
Page 2

agencies, federal and/or state, attempt to mandate changes in use priorities via litigation or by administrative means.

On the other hand, Environmental Defense (and, we hope, many others) have learned a few things since we published our report in 1983. Most significantly, the principal implementing entities and agencies benefiting from the WCTP, the QSA, and the IA, (the federal government, the State of California and the four southern California agencies, IID, SDCWA, MWD, and CVWD) must deal with the impacts of these projects and agreements on the environment and on the economic and social well-being of affected communities within the Imperial Valley. The Draft EIR/EIS published in late January hardly qualifies even as a foundation for a serious remedial program.

What environmental and socio-economic remedies are appropriate under the circumstances and which agencies in what proportion should be responsible for carrying out and financing those remedies are open questions. It is highly unfortunate that resolution of these questions has been postponed to what many believe is the eleventh hour for approval and for the start of implementation of the WCTP, the QSA, and the IA. Blame for this state of affairs is widely shared. It harkens back to the prior federal Administration. All the California entities, including the state government, and federal and state legislatures, have been complicit as well. Finally, the current federal Administration has not yet distinguished itself either. Least to blame are the leading environmental organizations. Environmental Defense presented itself at the beginning of the negotiations that followed upon the original announcement of a tentative IID-San Diego agreement and a competing MWD-DOI-Las Vegas agreement and was purposefully precluded from participation in those negotiations. Other environmental organizations have been raising objections off and on for years and intensively for at least eight months.

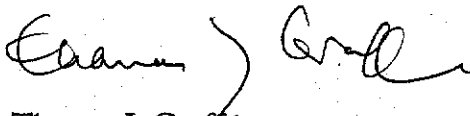
What is required now is a decision-making process that is jointly sponsored and led by executives at the highest levels of the federal and state governments, that is endorsed by the four regional agencies, and that incorporates representation of the views of those concerned about the situation's environmental and socio-economic aspects. Such a process should be launched immediately. Meanwhile, any further approvals of the WCTP, the QSA, and the IA should be made contingent on the prompt and successful resolution of the environmental/socio-economic process and amendments or other changes to these projects and agreements should be contemplated as likely outcomes of this process. Short term partial implementation of California's commitment to scheduled reductions in its Colorado River diversion can and should begin in any event. And Congress and the State legislature should be apprised of the process' particulars as they emerge and their participation, formal or informal, solicited and welcomed.

Bruce D. Ellis
Elston Grubaugh
April 18, 2002
Page 3

To approach anything like an optimal outcome here will require the good faith commitments of a wide range of interested parties. It will also require a creative can-do problem-solving orientation from many sectors.

We've come a long way since the day in 1981 when a public member of the Colorado River Board of California was rebuked by his fellow board members for publicly endorsing a package of proposals much like those now incorporated in the WCTP, the QSA, and the IA (see Attachment 3). But we've also still got a long way to go to implement such a package in a manner that is consistent with contemporary values regarding the environment and social justice.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Thomas J. Graff". The signature is written in dark ink and is positioned to the right of the typed name.

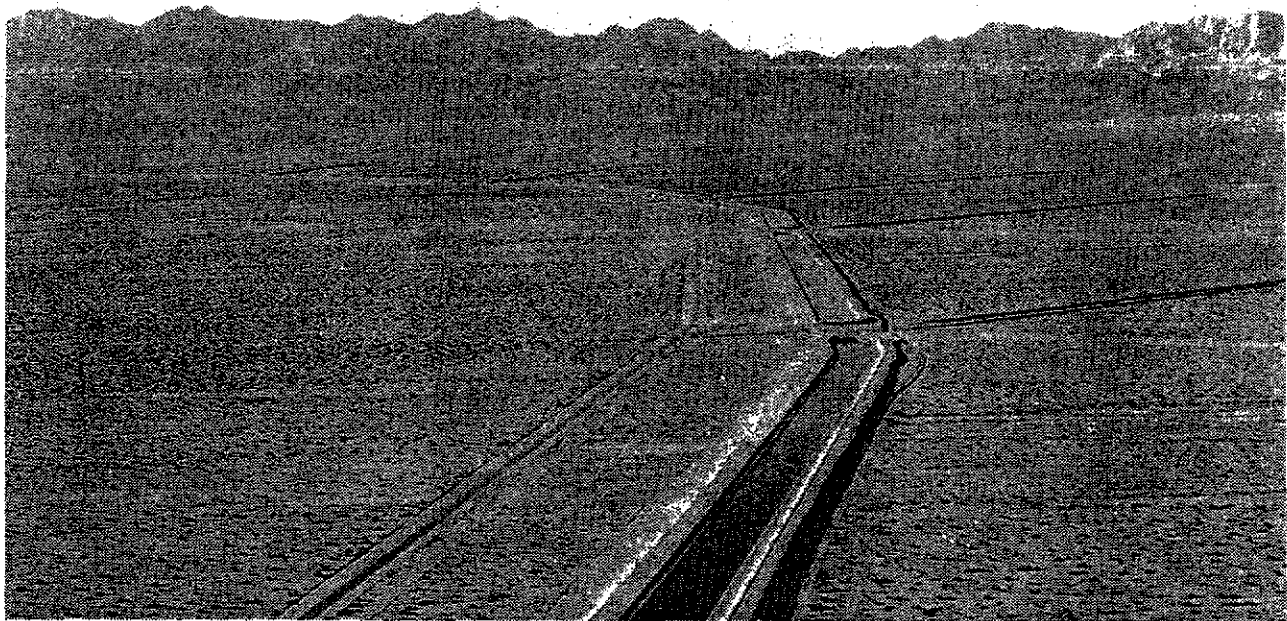
Thomas J. Graff
Regional Director

TJG:ypc

Enclosures

TRADING CONSERVATION INVESTMENTS FOR WATER

A Proposal for the Metropolitan Water District of Southern California
to Obtain Additional Colorado River Water
by Financing Water Conservation Investments
for the Imperial Irrigation District



by

The Environmental Defense Fund

Robert Stavins
Principal Author

With a Foreword by
Harvey O. Banks

March 1983

©1983 Environmental Defense Fund, Inc.

Attachment 1

FOREWORD

by Harvey O. Banks, P.E.*

Studies by the California Department of Water Resources, the U.S. Bureau of Reclamation and other agencies, indicate that substantial amounts of Colorado River water, possibly as much as 438,000 acre-feet per year, which the Imperial Irrigation District (IID) is entitled to divert under its water rights, could be conserved and used elsewhere without significantly impairing present agricultural production within IID. Most of this excess water now flows to the Salton Sea, where it serves to slow the build-up of salinity, but is finally dissipated through evaporation. Some is lost by seepage from the All-American Canal to ground water.

This study by the Environmental Defense Fund (EDF) indicates that it would be legally permissible and economically advantageous to both the Metropolitan Water District of Southern California (MWD) and its customers, and IID, if MWD were to enter into an equitable agreement with IID to salvage some of the water now lost, for use by MWD. MWD would make the required investments and pay the costs, including opportunity costs, involved in implementing the conservation measures within IID necessary to salvage the water. The conserved water would be diverted by MWD to make up in part for the prospective loss of a large portion of MWD's entitlement to Colorado River water by the pending operation of the Central Arizona Project, and by use under Indian water rights. The EDF study assumes that at the end of a 10 or 20 year period, the water would revert to IID to be used as that District saw fit.

While, as envisioned by EDF, this would be a temporary measure, the concept has certain definite advantages, apart from the economies projected by EDF. The initial investments would be relatively low. It could be implemented at an early date, barring unforeseen legal or institutional difficulties, whereas any substantial augmentation of State Water Project (SWP) supplies probably will take at least 10 years, and quite possibly longer. It would not obviate the necessity to take other actions at some time in the future to augment SWP supplies, but it would delay them for a time insofar as MWD is concerned.

It is possible that MWD's entitlement to the salvaged water could be made permanent by MWD buying up irrigation development rights to presently non-irrigated, poorer quality lands within IID. This should be explored.

It is noted that delay in construction of the facilities to augment SWP supplies from Northern California sources for a substantial period of time,

*Harvey O. Banks, P.E., is President, Harvey O. Banks Consulting Engineer, Inc., and was Director, California Department of Water Resources, 1956 - 1961.

while possibly economically beneficial to MWD, might have adverse effects on other SWP contractors. However, it is possible that early implementation of the MWD/IID salvage concept could make some additional SWP water available to other contractors for a time, depending on the rate of build-up of MWD's water demands and the timing of reductions in MWD's basic entitlement to Colorado River water.

I believe that the feasibility of salvage by MWD, under an equitable agreement with IID, of water now flowing from the IID service area to the Salton Sea or otherwise lost, should be explored formally by MWD and IID, including legal and institutional aspects. The feasibility studies should encompass not only the limited concept analyzed by EDF, but also that of a permanent supply to MWD. Potential effects, beneficial and adverse, on the State Water Project and other SWP contractors should be carefully evaluated.

With Planning and Conservation, California Won't Go Dry in 1985

By THOMAS J. GRAFF

"By 1985, the demands for water by other states will be so great, we're gonna lose half our Colorado River water." That's what the Metropolitan Water District of California would have us believe.

Was the slogan used in MWD's recent advertising campaign accurate? Is Southern California really about to lose half its Colorado River supply? Or are the residents of urban Southern California being misled by proponents of the Peripheral Canal into believing that a water shortage is imminent? In fact, the risk of such a shortage is very slight indeed, and even this small risk can be averted by thoughtful management of California's Colorado River supply.

The Colorado River supplies more than 65% of the amount of water used by Southern Californians. On the average, California water agencies divert nearly 5 million acre feet each year from the Colorado. (An acre foot of water covers an acre to a depth of one foot, and is the average amount of water used annually by a family of five).

There is a major imbalance, however, in the distribution of Colorado River water to Southern California. More than 4 million acre feet are delivered each year to farmers along the Colorado and in the Imperial and Coachella valleys, while only about 800,000 acre feet go to MWD users in the South Coast Basin, which stretches south from Ventura to San Diego and east to San Bernardino and Riverside. Except during the 1977 statewide drought, MWD in recent years has not used more than two-thirds of its total allotment.

For more than a decade, MWD has been promoting the expansion of the State Water Project, particularly the proposed 43-mile Peripheral Canal, which would carry Sacramento River water around the Sacramento-San Joaquin Delta for delivery to Southern California. As part of its campaign, MWD has issued dire warnings about how California water will be "lost to Arizona," at best a gross oversimplification.

MWD cites the U.S. Supreme Court ruling in 1963 in favor of Arizona on most of the important issues involved in its dispute with California over water. But afterward, a truce was negotiated in which California acquiesced in the construction of the Central Arizona Project (for which MWD has lobbied ever since); in exchange, Arizona

agreed to give up some of what it had gained from the court decision. As a result, California has the right to take its eventual 4.4 million acre-foot allotment (a cutback of 600,000 acre feet from the current level) from the river before the Arizona project is entitled to even one drop of its allotment. Therefore, even if a shortage develops on the Colorado River system as a whole, in the event of a drought or if the other states on the river ever use their full allotments, Arizona will bear the brunt of the shortage, not California.

Once the Arizona project is in operation, it is projected that California will thus lose about 12% of the water it currently uses. How this projected shortage would be borne among California's Colorado River users is critically important. MWD fears that it will suffer a disproportionate cutback, while agricultural users in the Imperial and Coachella valleys will hardly be cut back at all. This fear is based on a 1931 agreement among the Colorado River users that gives agricultural districts the first 3.85 million acre feet annually from the Colorado, with MWD only then getting the next 550,000 acre feet. MWD contends that if one accounts for possible Indian claims and incidental losses in the delivery of water to its service area, it may lose close to half of its Colorado River supply as early as 1985.

While MWD's fears are not entirely unfounded, there are several measures that could be taken to store water for future dry years. If the agency were to act now, it would be able to use the idle capacity in its Colorado River aqueduct, at least until 1985 and probably beyond, to deliver an additional 400,000 acre feet annually to be stored in Southern California groundwater basins. This is not an ideal solution because Colorado River water is much saltier than water from the State Water Project, and most consumers prefer the latter, both because of its taste and because water with a higher salt content is harsher on pipes. In the past, however, when water from the state project was unavailable, the South Coast Basin used as much Colorado River water as it could pump to replenish depleted groundwater basins.

If, in a given year, all the groundwater storage basins are already full (as may nearly be the case right now), MWD could use the Colorado River supply directly and arrange with the state project to hold additional water in Northern California as insurance. Such an arrangement would be cheaper and less wasteful of energy.

As a second option, MWD and other Cali-

fornia interests could accelerate development of the "Colorado River banking" program, under which California would store some of its share from Colorado River reservoirs in years when it had ample supplies from other sources. Water quality would be better, but energy costs would be higher.

If, on the other hand, there is no storage space available for California (as will likely be the case well into the 1990s), the state will be able to draw half the surplus water that these reservoirs are likely to spill which would otherwise flow to Mexico or be "wasted" to the Gulf of California.

Most important is the opportunity, which MWD has thus far not pursued, to change the terms of the 50-year-old agreement under which the large agricultural districts in the southeastern California desert get the first 87.5% of California's Colorado River share and MWD receives only the remainder. Indeed, there is a good chance that the courts today would find this apportionment unconstitutional, particularly since there is a general agreement that agricultural users waste large quantities of water.

What's missing in Southern California is concerted effort to conserve available supplies from the Colorado and a plan whereby all water-using entities would benefit. MWD could use its considerable financial resources to pay for most of the conservation measures in exchange for the rights to significant portion of the water conserved.

Even though it is true that MWD's Colorado River supply will soon be less secure, source than it is now, there are numerous ways to assure an adequate amount of Colorado River water if the MWD acts aggressively to protect its interests.

Thomas J. Graff is general counsel of the Environmental Defense Fund and a public member of the Colorado River Board of California.