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October 24, 2002

Ms. Victoria Whitney, Program Manager
Hearings and Special Projects Section
Division of Water Rights
SWRCB
PO Box 2000
Sacramento, CA 95812

Re: Transfer of water (IID and SDCWA petition to modify diversion and place of use), Permit 7643 on Application 7482

Dear Ms. Whitney:

On behalf of our clients, we are offering these brief comments to the revisions to the September 26, 2002 draft order. Our clients remain impressed with the ability of the SWRCB and especially its staff in revising the order so quickly.

As the SWRCB itself noted at the October 16 hearing, the additional language on page 3 that IID need not proceed with the transfer clarifies that IID is facing no pressure from California to enter into any water transfer. Our clients welcome the unequivocal language that as a voluntary participant, IID is making its own choice as to whether to proceed, under what terms, and whether it has the internal or organic authority to enter into the various specifics of a transfer.

With respect to the additional language in footnote 8 on page 27, our clients are similarly buoyed that the SWRCB is not requiring the IID – or any other specific entity – to perform the mitigation required. This leaves our clients and other landowners who are the beneficiaries of the water rights held in trust by IID to design a mechanism for mitigation that will provide maximum benefit to the Imperial Valley community. See our letter of October 21, 2002 to IID, copied to Ms. Cantu of the SWRCB. Our clients will, of course, keep the SWRCB informed of their efforts.

Finally, our clients note that footnote 20 on page 83 has been stricken. The text in which the footnote was placed has not changed, however. We can only conclude that the SWRCB removed the footnote as unnecessary, since the language continues to recite that the decision and order are significant and of potential use as a model in other transfers. Accordingly, our clients in both the Imperial Valley and elsewhere in the state will pay careful attention to this order and the balancing of interests the SWRCB has so carefully navigated. Given that water transfers are more and more likely as populations in California increase and water supplies do not, this decision while not being formally precedential will in any event serve as a hallmark of what is to come.

Sincerely,

Patrick J. Maloney

Encl. October 21, 2002 letter to IID

c. List of Parties to Exchange Information (SWRCB)

IID Board Member Allen

IID Board Member Horne

IID Board Member Kuhn

IID Board Member Maldonado

IID Board Member Mendoza

Ms. Lauren Grizzle

IVWUA

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Robert Johnson, Regional Director

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Hon. Bennett Raley

Assistant Secretary – Water

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