

TESTIMONY BEFORE THE SUBCOMMITTEE ON WATER AND POWER  
OF THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON RESOURCES

JUNE 14, 2002

TESTIMONY OF  
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on

IMPLEMENTATION OF THE CALIFORNIA PLAN FOR THE COLORADO  
RIVER – OPPORTUNITIES AND CHALLENGES

Mr. Chairman and members of the Committee, thank you for the opportunity to testify today. My name is Michael Cohen. I am a Senior Associate with the Pacific Institute for Studies in Development, Environment, and Security. The Pacific Institute is an independent, non-partisan, non-profit center with offices in Oakland, California and Boulder, Colorado, created in 1987 to conduct research and policy analysis in the areas of environment, sustainable development, and international security. The Institute has studied Colorado River issues for more than a decade, beginning with early research on the potential impacts of climate change on Colorado River flows, through our 1996 report entitled *The Sustainable Use of Water in the Lower Colorado River Basin*. In 1999, I was the lead author of the Institute's *Haven or Hazard: The Ecology and Future of the Salton Sea* (now posted at [www.pacinst.org/salton\\_sea.html](http://www.pacinst.org/salton_sea.html)), and last fall I was the lead author of the Institute's *Missing Water: the Uses and Flows of Water in the Colorado River Border Region* (posted at [www.pacinst.org/missing\\_water.htm](http://www.pacinst.org/missing_water.htm)). As noted on the attached resume, I have also been the author or co-author of several peer-reviewed articles on the Salton Sea and lower Colorado River, and have presented on these topics at numerous professional conferences and workshops.

The Institute works extensively on California water policy issues and provides analysis and policy recommendations to State, Federal, and local policymakers. To this end, I prepared the Institute's comments on the Salton Sea Restoration Project draft EIR/EIS, on the Colorado River Interim Surplus Criteria draft and final EIR/EIS, and on the recent IID water conservation and transfer project draft EIR/EIS. I crafted the Institute's Proposal to Preserve and Enhance Habitat at the Salton Sea, the only independent proposal to be reviewed by the Salton Sea Science Office. I also participated in California's State Water Resources Control Board policy hearing on the IID-San Diego County Water Authority water transfer.

My testimony today addresses two main points: the challenges associated with the implementation of California's Colorado River Water Use Plan, and opportunities for minimizing economic and environmental disruptions caused by the implementation of the plan and connected federal actions, such as the Interim Surplus Guidelines (ISG), Implementation Agreement, and the Inadvertent Overrun Program. These opportunities arise from the considerable flexibility that exists under current law to meet the requirements of the ISG while a voluntary, consensus-based long-term plan is developed and implemented.

Let me emphasize here that the Pacific Institute supports the California Plan and the objective of reducing the state's dependence on the Colorado River. It is plainly in the interests of stakeholders throughout the basin for California to reduce its take of Colorado River water. Doing so will increase the reliability and predictability of future supplies on the river, benefiting recognized users as well as facilitating efforts to preserve and enhance environmental values within the basin. The Pacific Institute recognizes the importance of reducing California's use, which is why we have developed a series of proposals to facilitate the California Plan without imposing the costs of implementation on the environment or third parties.

The challenge comes in ensuring that the implementation of the California Plan and its various components do not degrade environmental or human health, and wind up costing state and federal taxpayers more money over the long term to correct problems that could have been avoided today. The California Plan, and particularly the proposed transfer of water from Imperial Valley agriculture to metro San Diego, could cause significant negative impacts to the environment and to human health. These impacts would be manifested most dramatically at the Salton Sea, but could also occur within the remnant Colorado River delta, and potentially in the San Diego County Water Authority (SDCWA) service district, and along the reach of the Colorado River from Parker Dam to Imperial Reservoir.

The looming threat that the failure to execute the Quantification Settlement Agreement (QSA) by December 31 will trigger the suspension of the Colorado River interim surplus guidelines, reducing deliveries of Colorado River water to California by 800,000 acre-feet or more, may outweigh the multiple threats to environmental and human health of proceeding with the water transfer. This is the argument promoted by advocates of the water transfer. Whether the Secretary would suspend the guidelines and impose such economic disruption on the state of California – and the nation as a whole – is an open question. What is more evident is that California's failure to execute the QSA by the end of this year would be interpreted by the other Colorado River basin states as a demonstration of bad faith, and could well signal a marked step backward from the remarkable cooperation and communication among the basin states in the past several years.

Regrettably, this level of cooperation and communication did not extend beyond the basin states and the four water agencies that drafted the California Plan, to other stakeholders. Had it done so, I suspect that we would not be faced with range of challenges that confront us today. Instead, we are now faced with the challenge of identifying a means of implementing the California Plan in the least disruptive manner. By least disruptive, I mean with the minimal impact on the ground, be that measurable impacts to fish and wildlife, or exposure of Salton Sea lakebed, or loss of jobs. I do not believe that legislative exemptions or waivers to existing protections could be enacted quickly or easily, or without broad disruption. Efforts to enact a legislative fix, to facilitate the implementation of the California Plan, would likely be contested by a broad range of interests, interests that likely would not otherwise involve themselves. Given the pressures of time, such a course of action poses considerable risks.

What is really needed is more time, time to address the complex challenges created by in part by the water agencies' decision to exclude most of the stakeholders from the development of the California Plan. Time to address the various challenges described in the following could be generated if the State Water Resources Control Board, the Bureau of Reclamation, and the water agencies themselves, agreed to a five year, conditional approval of the proposed water conservation and transfer project.

The environmental documentation prepared for the proposed water transfer fails to adequately describe, much less offer sufficient mitigation for, the various environmental and human health impacts likely to result from the water transfer. Part of the challenge – and opportunity – is that the means by which

water will be conserved in the Imperial Valley has yet to be determined. This uncertainty provides an opportunity to implement an interim plan, while a mutually-agreeable long-term plan to minimize the impacts to environmental and human health is developed. To avoid the suspension of the Interim Surplus Guidelines and the economic disruption that would cause, the proposed water transfer could be granted a temporary, conditional approval, contingent upon the development and implementation of economic development, habitat preservation, and dust abatement plans.

Such a temporary, conditional approval offers several benefits. Perhaps the most salient of these is that such an approach would not require federal legislation, and likely would not require state legislation, either. Avoiding the challenge of crafting ESA-exemption, or ESA-sufficiency, language would markedly improve the prospects of any such plan, by minimizing the likelihood that a broad range of organizations would intervene due to the precedent, rather than the substance, of such legislation. Our common goal of minimizing the challenges to the implementation of the California Plan, and the dramatic economic disruptions such challenges could cause, could be realized by minimizing the extent and scope of any state and federal facilitating legislation required.

The implementation of the California Plan and its various components pose a range of challenges, described below. Regrettably, the costs of the plan would be borne disproportionately by the environment and by poor communities, while the benefits would accrue largely to the wealthy southern California coastal plain. Although it is clear that avoiding the suspension of the Interim Surplus Guidelines is in the general interest of Californians, it is not clear that the costs of avoiding that suspension should fall as they do, especially when viable alternatives exist. In the following I describe some of these costs and challenges.

### **Impacts on Mexico and the Colorado River delta**

The lining of the All-American Canal, funded by the State of California to promote the QSA, would conserve 67.7 KAF/year of water otherwise lost to seepage, generating 56.2 KAF/year for the Metropolitan Water District of Southern California (MWD) and 11.5 KAF/year as partial settlement for the San Luis Rey tribe. Currently, this seepage water follows a groundwater gradient into the northern Mexicali Valley in Mexico, where it is pumped by irrigators to supplement Colorado River supplies. The loss of seepage water will place additional pressure on existing supplies, reducing the availability of such water for re-allocation for environmental purposes within the delta region.

Interim surplus criteria, properly mitigated, could have been a reasonable means of facilitating the implementation of plans and projects to reduce California's use of Colorado River water. Unfortunately, the Department of the Interior ignored a set of criteria that would have minimized environmental impacts, instead choosing a set of Interim Surplus Guidelines that will reduce the frequency and magnitude of flows below Morelos Dam (considered the upstream extent of the mainstream portion of the Colorado River delta). The Interim Surplus Criteria DEIS indicates that, in the year 2015, the chosen alternative will reduce the probability of flood flows reaching the delta by more than 16 percent. The reduced frequency of flood flows could degrade habitat in the area, subsequently impacting the species that depend on this habitat.

### **Impacts to the Lower Colorado River, Parker to Imperial Dams**

The cumulative impact of actions undertaken under the QSA and connected federal actions could reduce annual flows from Parker to Imperial Dams by 400 kaf/year, or more. If not managed properly through re-operation of Parker Dam, Reclamation estimates that this reduction in flow could decrease the surface extent of open water in the main channel by 35 acres, by 17 acres in backwaters, and decrease the extent of emergent vegetation in backwaters by 28 acres. Additionally, the elevation of the adjacent alluvial aquifer could drop by more than 1/3 of a foot, potentially below the root zone of native riparian

vegetation, further degrading a scarce habitat. To minimize these avoidable impacts, Reclamation could maintain current maximum instantaneous releases from Parker Dam and decrease the rate of minimum releases, thereby ensuring that backwaters continue to receive water at current rates, and also reducing impacts to power generation.

### **Growth-inducing Impacts at the Point of Delivery**

The re-allocation of water under the QSA, from Imperial Valley to metro San Diego and to the Coachella Valley and/or MWD, could have growth-inducing impacts in these areas. The water transfer DEIS recognizes that the transfer would increase deliveries of Colorado River water to the Coachella Valley, yet dismisses the potential for growth-inducing impacts there and at the other points of delivery by claiming that the transfer does not create new water. Rather, the DEIS claims that the transferred water would merely offset groundwater pumping, or would result in the same blend of water currently received. This is false.

The adoption of SB 221 in October 2001 changed California's statutory climate, clarifying the transfer's growth-inducing impacts at the points of delivery. SB 221 prohibits approval of new developments of at least 500 units, unless the applicable public water system verifies that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will

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be (including transferred water ), available prior to completion of the project. A 1999 IID newsletter specifically notes this objective: "The proposed Project is designed to ... 3) provide SDCWA with a reliable, long-term and cost effective water supply to provide drought protection and to accommodate current and projected demands for municipal and agricultural water."

San Diego County and the Coachella Valley have experienced high growth rates in the past decade, causing the loss of coastal sage scrub and desert bighorn sheep habitat, among other impacts. The re-allocation of water under the QSA would satisfy SB 221's requirement that large new developments demonstrate a reliable supply of water, meaning that the QSA will exacerbate the high growth rate at the points of delivery. Yet the recent NEPA/CEQA environmental documentation fails to recognize the potential for growth-inducing impacts arising from this re-allocation of water, much less provide appropriate mitigation for these impacts.

### **The Water Transfer and the Salton Sea**

Depending on how water is conserved for the proposed transfer, inflows to the Salton Sea could be reduced as much as one-for-one. Agricultural drainage sustains the Salton Sea; reducing that drainage will cause the Sea's salinity to spike and will reduce the Sea's extent, exposing lakebed, stranding existing shoreline habitat, and exposing land bridges to avian rookeries.

The Salton Sea provides a host of ecological values that are important not only within the Imperial and Coachella valleys but also throughout the length of the Pacific Flyway. Although the Salton Sea is a product of human activity, the Sea and its environs provide a complex mosaic of habitats, ranging from open water, estuaries, and salt marsh to mud flats and riparian corridors. Agricultural drainage, rich in fertilizer, supports tremendous biologic productivity at the Sea, including tens of millions of non-native fish. These resources support more than 400 species of birds and a variety of other wildlife, including state and federally listed species such as the Southwestern willow flycatcher, Greater sandhill crane\*, California black rail\*, brown pelican\*, California least tern\*, California and least Bell's vireos, Yuma clapper rail\*, and the desert pupfish. These habitats are especially vital given the destruction of wetlands throughout most of southern California and the lower San Joaquin Valley and within the Colorado River delta itself.

Agricultural drainage adds some four million tons of salt to the Salton Sea each year. Without some method of removing such salts, the salinity of the Sea will gradually increase over time, eventually exceeding the tolerance of fish and many of the invertebrates that currently thrive there, most notably pileworms. Although the salinity tolerance of tilapia (the most numerous fish in the Sea) is not known definitively, researchers project that their salinity tolerance would be exceeded at the Sea within forty years, assuming inflows remain relatively constant. Actions associated with the QSA, most notably the water transfer, could markedly reduce inflows to the Sea, causing salinity to spike beyond fish tolerance within as little as ten years. Pileworm salinity tolerance would likely be exceeded within several years thereafter. The rapid loss of most of the fish and macro-invertebrate species from the existing food chain would dramatically limit food availability for many of the birds that currently use the Sea. Given the loss of more than 90% of California's pre-development wetlands, it is not clear what other resources along the Pacific Flyway these birds might use.

The rapid transition from the current fish-supporting habitat to a hyper-saline, non-fish-supporting habitat in some respects represents an acceleration of current trends (though it is unclear whether the existing fishery would be able to tolerate such rapidly changing conditions as readily as it has tolerated the gradual change generated by constant inflows). The reduction in inflows to the Sea would also generate a change in kind, dropping the elevation of the Sea by as much as 19 feet and exposing some 105 square miles of existing lakebed. Currently, double-crested cormorants nest in large numbers on islands within the Sea, where nesting by endangered brown pelicans has also been reported. Dropping the elevation of the Sea would connect these islands, and other valuable snag habitat, to the mainland, exposing the birds to predation by land-based carnivores and leading to the abandonment of such sites. Nor is it clear that the exposed lakebed would provide habitat similar to existing shoreline and mudflat habitat, as the exposed lakebed would likely be covered by a layer of salt, diminishing its habitat value. Such exposed lakebed would also be a new source of windblown emissions, in a region that already exceeds airborne contaminant thresholds.

The proposed water transfer could expose 50,000 acres of Salton Sea lakebed (more than 78 square miles), more than the emissive surface at Owens Lake, where the exposure of more than 60 square miles of lakebed has led to the largest dust storms in the U.S. Owens lakebed emits as much as 290,000 tons of PM<sub>10</sub> annually, degrading human health in the region. Even if Salton Sea lakebed were only 1% as emissive as that of Owens lakebed, emissions would still exceed federal standards. Mitigation efforts have recently begun at Owens Lake, to address the dust emissions that plague human health in the region. The costs of such efforts may exceed \$250 million. Depending on wind direction, speed, and duration, fugitive dust emissions could be carried from exposed Salton Sea lakebed southeast, into populated areas of the Imperial Valley, or northwest, into Coachella Valley communities such as Indio, here in La Quinta, and as far north as Palm Springs. The cost of limiting such dust emissions were not estimated by the water transfer DEIS, but it is reasonable to assume that they could equal or exceed the costs of efforts at Owens Lake. It is unclear who would pay such costs.

Particularly in Imperial County, the environmental effects, including the potential for a dramatically increased exposure to airborne emissions and consequent health effects, would be borne in large measure by poor and minority populations. Additionally, these populations consume fish caught from the Salton Sea and tributaries. The proposed project could increase selenium concentrations in such fish, and eventually eliminate fish from the Salton Sea entirely, disproportionately affecting poor and minority populations. The benefits from the transfer would be realized most directly within the San Diego County Water Authority service area, and potentially by landowners within the Imperial Valley (IID has yet to determine how transfer-generated revenues will be distributed, and to date IID has made little

commitment to ensuring that those whose jobs are displaced by the transfer are compensated).

### *Solutions*

Water transfer proponents offer two alternatives to minimize the transfer's impacts on the Sea: fallowing land in the Imperial Valley, or building a fish hatchery and 5,000 acres of feeding ponds (at a cost exceeding \$100 million). Fallowing could provide a short-term remedy, as a long-term plan is refined and implemented, but Imperial Valley residents have made clear their opposition to fallowing the 75,000 – 90,000 acres that would be required to free up sufficient water for the transfer and maintenance of the Sea. The water transfer DEIS only describes feeding ponds in generalized, conceptual terms, precluding a reasonable assessment of their merits. Even so, 5,000 acres of feeding ponds are unlikely to provide any meaningful substitute for the loss of more than 240,000 acres of existing surface water at the Sea.

Limited state and federal budgets suggest that mitigation for the water transfer should be rolled into a long-term habitat preservation plan for the Sea. It is unlikely that the legislature will appropriate \$100+ million now for a stop-gap plan, and then appropriate another \$400+ million in several years, for a long-term plan. Nor is it clear that the political will exists to authorize and appropriate the estimated \$1.5 Billion required to maintain the Sea at its current elevation and salinity, especially since such a plan would require aggressive intervention, in perpetuity.

A more reasonable approach would be to implement a sustainable plan for the Salton Sea, both as mitigation for the water transfer and as a long-term solution. A sustainable plan recognizes that inflows to the Sea will decrease over time, and so focuses on preserving the fishery and shoreline of a portion of the Sea, rather than the Sea as a whole. Several such plans have been proposed, ranging from a "tri-delta approach," to the Pacific Institute plan that would impound roughly 10% of the Sea, to building a dike across the Sea's waist, stabilizing salinity and elevation in the southern half. The goal of each of these plans is to create a flow-through system, where the elevation and salinity of a part of the Sea could be stabilized, while the remaining portion of the Sea would transition to a hyper-saline, invertebrate-rich system akin to Mono or the Great Salt Lake. In conjunction with other planned and proposed efforts – such as treatment wetlands and fertilizer management – such a limited approach could facilitate the water transfer while preserving and enhancing the Sea's ecological values over the long term.

### **Who Pays?**

The costs of mitigating the environmental impacts of re-allocating water within California vary from the limited expense of the re-operation of Parker Dam, to the billions of dollars potentially required to address the loss of most of the Salton Sea and the resultant dust-storms that could plague much of the area. The water transfer agreement seeks to externalize the environmental costs of re-allocating water, by limiting IID's contribution to \$30 million total for the 75-year life of the agreement; SDCWA's contribution is expected to be even less. By arbitrarily capping their environmental contribution, the parties ignore the true costs of re-allocating water. Presumably, the parties expect state and federal taxpayers to cover the remaining costs, representing an exorbitant subsidy for a purportedly market-based transaction.

Nonetheless, state and federal interests exist in facilitating California's reduced dependence on Colorado River water. Additionally, the existence of listed species at impacted areas merits state and federal contributions. Combining a reasonable contribution from the QSA and transfer parties with state and federal monies would represent an equitable and reasonable approach to funding actions to minimize the environmental impacts of actions taken under the QSA.

## **OPPORTUNITIES**

For the Salton Sea, site of the most dramatic and costly of these impacts, such contributions could come in the form of a combined mitigation/long-term habitat preservation and enhancement effort. To provide sufficient time for development and review of such a combined effort, the water transfer could proceed along the lines of the proposal submitted by the Imperial County Farm Bureau, wherein Imperial Valley farmers would temporarily fallow land for the first several years of the transfer agreement, as IID collects sufficient revenue to underwrite the costs of implementing on-farm conservation measures. Such temporary fallowing would reduce impacts to the Salton Sea, while addressing farmers' needs for financial predictability. This interim period would also provide time for the development and implementation of a long-term habitat preservation and dust abatement plan for the Salton Sea.

California's State Water Resources Control Board and the Bureau of Reclamation could grant a temporary, conditional approval of the proposed water transfer, contingent upon the parties' enforceable commitment to implement the following terms:

- To minimize environmental impacts, the water transferred during the period of approval could only be generated by the voluntary, temporary fallowing of land. Such temporary fallowing would limit impacts to the Salton Sea, while addressing farmers' needs for financial predictability. In the initial years of the transfer, as the volume of transferred water ramps up, the amount of land needed to generate the water would be smaller than at peak periods, reducing socio-economic impacts.
- A plan to invest an appropriate percentage of the transfer revenues into a community development fund, to mitigate for the socio-economic impacts at the area of origin. The size and distribution of the fund would be determined in consultation with a broad range of local community organizations.
- A plan to identify and address the growth-inducing impacts of the transfer at the point of delivery, with broad-based community participation.
- A plan to reduce the concentration of selenium in drainage waters, by one or more of: wetland management programs, targeted efforts at disproportionately high sources of selenium within the Imperial Valley, and/or support for Upper Colorado River Basin selenium source reduction programs..
- The development and implementation of a long-term habitat preservation and dust abatement plan for the Salton Sea, generated in consultation with a broad range of stakeholders and overseen by the Salton Sea Authority, in consultation with the Salton Sea Science Office.

The temporary, conditional approval would expire on December 31, 2007. If by that date each of the above elements were implemented satisfactorily, the State Board and the Bureau of Reclamation would grant an unconditional approval of the proposed action.

Such a temporary, conditional approval would minimize the environmental impacts of the transfer, by providing for a method that would have limited impact on inflows to the Salton Sea and by denying the long-term supply reliability required to approve large new developments. Additionally, the five-year interim period would afford a reasonable amount of time to develop a long-term habitat preservation and dust abatement plan for the Salton Sea. By making final approval of the transfer contingent upon the implementation of such a plan, the transfer parties would be encouraged to direct their efforts toward securing the authorization and appropriations necessary. This approach would enable California to meet the terms of the Interim Surplus Guidelines, while affording time to develop reasonable mitigation.

As displayed in the following graph, farmers in the Imperial Valley regularly fallow nearly 20,000 acres of

land per year, representing roughly 4.1% of the total land in production. The least productive farmland, in terms of jobs and total revenues produced, also tends to be the most-water intensive, using five to six acre-feet/acre.



### **A Long-term Habitat Preservation Plan**

In October 2001, the Pacific Institute submitted to the Salton Sea Authority a "Proposal to Preserve and Enhance Habitat at the Salton Sea" (posted online at [www.pacinst.org/salton\\_sea.html](http://www.pacinst.org/salton_sea.html)). This proposal calls for the construction of dikes or other impoundment structures at the north and south ends of the Salton Sea, creating flow-through systems in these impounded areas to limit salinity. To address nutrient loading and to enhance habitat in the major tributaries, the proposal also calls for the construction of wetlands along the New and Alamo rivers. Desert Wildlife Unlimited is already in the process of constructing wetlands in these areas.

The Pacific Institute proposal is the only outside proposal to be reviewed by experts convened by the Salton Sea Science Office. A synthesis report of this expert review will be distributed by the Science Office in the near future. This report identifies several concerns about the proposal, including problems with the construction of the impoundment structures, potential selenium concentrations in excess of regulatory standards, change in flora and fauna and potential for increased problems associated with eutrophication, and potential for increased disease transmission. It should be noted that this is an iterative process, and that future revisions will incorporate comments and suggestions from outside experts in an effort to develop a habitat preservation plan that is compatible with a broad range of inflows.

The objective of the proposed diking alternative is a project that is sustainable over the long term, preserves and enhances ecological values and promotes recreational and economic development opportunities, while being compatible with water re-allocation efforts and other actions that could reduce inflows to the Sea. If implemented, such a plan could result in a southern impoundment with a variety of recreational opportunities, including fishing, duck hunting, and bird-watching, across a huge expanse of open water. Shoreline habitat would be preserved; the estuarine conditions could promote increased productivity and support a greater diversity of marine species, linking to vibrant riparian corridors and wetland habitats in the Alamo and New rivers. The northern impounded area could support similar diversity, or could be managed to stabilize at a different salinity, potentially sustaining a different array of species. The central portion of the Sea could transition to a water body with a productive invertebrate system, feeding a host of other waterbirds.

Such a limited approach would satisfy a narrow interpretation of the stated goals of the Salton Sea Restoration Project and the Reclamation Act, though it would not address the condition of the Sea as a whole. Yet such a limited approach, if implemented in conjunction with efforts to limit inflows of



nutrients and selenium, could preserve a significant amount of avian habitat and promote recreational and economic development in the immediate area.

## Conclusion

The re-allocation of water throughout southern California would have significant environmental impacts, ranging from loss of habitat for listed species, to increased fugitive dust emissions from exposed lakebed, to growth-inducing impacts at the various points of delivery. Yet rather than proposing actions to minimize these impacts, environmental compliance documentation to date ignores or downplays these impacts. Viable solutions exist, ranging from dam re-operation to diking options at the Salton Sea, but the political will to implement such actions has yet to be demonstrated.

The general objectives of the QSA and connected federal actions enjoy widespread support. Yet, like many actions and agreements within the Law of the River, environmental interests are relegated to a far distant corner, shrouded by a strident appeal to the broader objective of reducing California's dependence on the Colorado River. Water agencies, state and federal officials, and editorial boards cite with alarm the impending deadlines and the threat of sharp and dramatic reductions in water availability for southern California, should the QSA be delayed due to state and federal environmental compliance requirements. That the QSA proponents have had several years to address the well-known environmental impacts of their actions regularly escapes notice.

Unfortunately, time to address the various impacts to environmental and human health that could be caused by the implementation of the California Plan does not exist. To address this time constraint and to avoid the suspension of the Interim Surplus Guidelines, the Bureau of Reclamation and the State Water Resources Control Board, as well as the four water agencies, could agree to a temporary approval of the IID-SDCWA water transfer, contingent upon the transferred water being generated by voluntary fallowing. Unconditional approval of the transfer would require the water agencies to commit to the development and implementation, in consultation with stakeholders, of an economic development plan for the Imperial Valley, a long-term habitat preservation plan for the Salton Sea, a dust abatement plan, a plan to address growth-inducing impacts, and a plan to address selenium.

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California Government Code Section 66473.7. (a)(2)(D) "The amount of water that the water supplier can reasonably rely on receiving from other water supply projects, such as conjunctive use, reclaimed water, water conservation, and water transfer, including programs identified under federal, state, and local water initiatives such as CALFED and Colorado River tentative agreements...."

**\* Indicated species are among those listed by California's Fully Protected Species Act [California Fish and Game Code 3511], which prohibits take of any individual** of a listed species:

3511. Fully protected birds or parts thereof may not be taken or possessed at any time and no provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected bird and no such permits or licenses heretofore issued shall have any force or effect for any such purpose; except that the commission may authorize the collecting of such species for necessary scientific research and may authorize the live capture and relocation of such species pursuant to a permit for the protection of livestock. Legally imported fully protected birds or parts thereof may be possessed under a permit issued by the department.