2009 ANNUAL REPORT OF
IMPERIAL IRRIGATION DISTRICT PURSUANT TO
SWRCB REVISED ORDER WRO 2002-013

March 31, 2010

Appendices

Appendix 1 – Annual QSA Water Report and BOR Data for 2009

Appendix 2 – 2009 Water Conservation Projects for Order WR 88-20 Transfer to MWD

Appendix 3 – Schedule of Mitigation Fallowing Alternative for Salton Sea Conservation Strategy

Appendix 4 - Salton Sea elevation change 2006-2009

Appendix 5 – Reconciliation of BOR "final" decree reporting numbers compared to those reported by IID in 2004, 2005, 2006, 2007 and 2008 SWRCB Annual Reports

Appendix 6 - Pro forma 2009 fallowing contracts between participating farmers and the IID

Appendix 7 – Not used; intentionally left blank

Appendix 8 – IID QSA 2008 Annual Implementation Report

Appendix 9 – IID Water Conservation Transfer Project Annual Report, In-Valley Permits, March 2010

Appendix 10 – IID Water Dept. DRAFT 2009 Crop Rank and Acreage and DRAFT Annual Inventory of Areas Receiving Water 2007, 2008 and 2009

Appendix 11 – Canal loss issue resolution correspondence

Appendix 12 – Settlement Agreement Resolving Present and Future Disputes Under Sections 14.5 and 18.1 of the Revised Fourth Amendment to the IID/SDCWA Conserved Water Transfer Agreement dated May 7, 2007

Appendix 13 – Main Canal Seepage Recovery Project Description

I. INTRODUCTION

On October 5, 1998, Imperial Irrigation District ("IID") and the San Diego County Water Authority ("SDCWA") submitted a joint petition to the SWRCB seeking approval to transfer conserved water from IID to SDCWA as a long-term transfer and to change the place of use, point of diversion and purpose of use necessary to allow the transfer under IID's Permit 7643. This petition was later amended to also include transfers to the Coachella Valley Water District ("CVWD"); and/or The Metropolitan Water District of Southern California ("MWD"), for water transfers to CVWD that CVWD determines to reduce or postpone. After completion of a lengthy water rights hearing, the SWRCB issued Order WRO 2002-013 and then its Revised Order WRO 2002-013 in accordance with WRO 2002-016.

Pursuant to Revised Order WRO 2002-013 (the "Order"), IID is to submit an annual report by March 31 of each year to the Chief of the Division of Water Rights reporting on certain facts and actions taken during the prior calendar year, as specified on pages 85 to 92 of the Order. This annual report covers calendar year 2009.

The long-term transfer of conserved water from IID to SDCWA commenced in calendar year 2003 following (i) IID's adoption on October 2, 2003, of the September 2003 Amended and Restated Addendum to the Final EIR/EIS for the Transfer Project, CEQA Findings and Statement of Overriding Considerations and the MMRP; (ii) the recording of a Notice of Determination for the Transfer Project and posting by the State Clearinghouse on October 8, 2003; and (iii) execution of the QSA and related agreements on October 10, 2003.

Pursuant to the Fourth Amendment to the IID/SDCWA Transfer Agreement and the Amended and Restated Addendum to the Final EIR/EIS, and other QSA and Related Agreements, IID conserved water for transfer to SDCWA in 2003 by entering into voluntary

thirteen-month contracts with farmers to fallow some of their farmland. Pursuant to a solicitation process commenced after October 10, 2003, IID entered into 69 contracts with farmers as of December 1, 2003, to fallow approximately 5,764 acres to produce the 10,000 AF of conserved water transferred to SDCWA in calendar year 2003. The monthly and annual schedule of conserved water created by fallowing for transfer to SDCWA is contained in Appendix 1. As will be noted, only 3,445 AF was created in December 2003, with the balance created from January through December 2004. Nonetheless, SDCWA received its full transfer volume in December 2003 by IID utilizing the Inadvertent Overrun and Payback Program ("IOPP") implemented by the Secretary of Interior. All Lower Colorado River Basin States repayments for 2003 overruns were waived by the United States Bureau of Reclamation ("BOR") in 2004.

IID conserved water for transfer to SDCWA in 2004 by entering into voluntary 12-month contracts with farmers to fallow some of their farm land. Pursuant to a solicitation program between April 1 and April 30, 2004, IID entered into 118 12-month contracts with farmers as of July 1, 2004, to fallow approximately 12,127 acres to produce the 20,000 AF of conserved water transferred to SDCWA in calendar year 2004, plus conserved water for other QSA and Related Agreement purposes. The monthly and annual schedule of conserved water created by fallowing for transfer to SDCWA and for other purposes is also contained in Appendix 1.

IID conserved water for transfer to SDCWA in 2005 by entering into voluntary 12-month contracts with farmers to fallow some of their farm land. Pursuant to a rollover of volunteers from the 2004 program solicitation plus the participation of IID owned land, IID entered into 105 12-month contracts with farmers as of July 1, 2005, to fallow approximately 11,676.2 acres to produce the 30,000 AF of conserved water transferred to SDCWA in calendar year 2005, plus

conserved water for other QSA and Related Agreement purposes. The monthly and annual schedule of conserved water created by fallowing for transfer to SDCWA and for other purposes is also contained in Appendix 1.

IID conserved water for transfer to SDCWA in 2006 by utilizing some of its owned land and by entering into voluntary 12-month contracts with farmers to fallow some of their farmland. Pursuant to a solicitation program in the spring of 2006, IID entered into 108 12-month contracts with farmers as of July 1, 2006. Those contracts, plus the participating IID-owned land, resulted in the fallowing of approximately 17,984.4 acres to produce the 50,000 AF of conserved water transferred to SDCWA in calendar year 2006, plus conserved water for other QSA and Related Agreement purposes. The monthly and annual schedule of conserved water created by fallowing for transfer to SDCWA and for other QSA-related purposes is also contained in Appendix 1.

IID conserved water for transfer to SDCWA in 2007 by entering into voluntary 12-month contracts with farmers to fallow some of their farmland. Pursuant to a solicitation program in the spring of 2007, IID entered into 150 12-month contracts with farmers as of July 1, 2007. Those contracts resulted in the fallowing of approximately 16,172 acres to produce the 50,000 AF of conserved water transferred to SDCWA in calendar year 2007, plus conserved water for other QSA and Related Agreement purposes. The monthly and annual schedule of conserved water created by fallowing for transfer to SDCWA and for other QSA-related purposes is also contained in Appendix 1.

IID conserved water for transfer to SDCWA in 2008 by entering into voluntary 12-month contracts with farmers to fallow some of their farmland. Pursuant to a solicitation program in the spring of 2008, IID entered in to 133 12-month contracts with farmers as of July 1, 2008. Those contracts resulted in the fallowing of approximately 12,778.7 acres to produce the 50,000 AF of

conserved water transferred to SDCWA in calendar year 2008, plus conserved water for other QSA and Related Agreement purposes. The monthly and annual schedule for conserved water created by fallowing for transfer to SDCWA and for other QSA-related purposes is also contained in Appendix 1.

The transfer of conserved water to CVWD commenced in 2008. IID created 4,000 AF of conserved water by efficiency improvements to the IID water distribution system. IID built and operated a seepage recovery project on the Main Canal to capture seepage and return it to the canal for delivery. The monthly and annual schedule of conserved water created and transferred to CVWD is also contained in Appendix 1. A more detailed description of the Main Canal Seepage Recovery Project is contained in Appendix 13.

IID conserved water for transfer to SDCWA in 2009 by entering into voluntary 12-month and 24-month contracts with farmers to fallow some of their farmland. Pursuant to a solicitation program in the spring of 2009, IID entered in to 112 12-month contracts and 79 24-month contracts with farmers as of July 1, 2009. Those contracts resulted in the fallowing of approximately 17,854 acres to produce the 60,000 AF of conserved water transferred to SDCWA in calendar year 2009, plus conserved water for other QSA and Related Agreement purposes. The monthly and annual schedule for conserved water created by fallowing for transfer to SDCWA and for other QSA-related purposes is also contained in Appendix 1.

The transfer of conserved water to CVWD increased in 2009 in accordance with the transfer schedule contained in Appendix 3. IID created 8,000 AF of conserved water by the efficiency improvements to the IID water distribution system described above.

II. REVISED ORDER WRO 2002-013 REQUESTED INFORMATION

A. Report on Water Transferred

The Order (p.85 Condition No. 4), requests IID to verify the amount of water transferred. Condition No. 4 requests the following information:

(a) The quantity of water diverted at Imperial Dam;

(b) An estimate of the quantity of water that is returned to the Colorado River from diversions made at Imperial Dam;

(c) The quantity of water subject to variation permitted by the IOPP adopted by the Department of Interior;

(d) Gross diversions at Whitsett Intake plus the quantity of water diverted at Whitsett Intake pursuant to the Order;

(e) An estimate of the reductions in deliveries to participating farmers;

(f) An estimate of the quantity of water conserved by conservation projects implemented by the permittee; and

(g) An estimate of the quantity of water conserved by efficiency-based conservation measures.

IID is producing each year an Annual QSA Water Report that identifies IID compliance with its water conservation, transfer and mitigation obligations under the SWRCB Order and QSA and Related Agreements. Twenty-eight tables, based on IID's best estimates as of the date of this annual report, are included in Appendix 1 entitled:

- 2009 IID Water Use
- 2008 IID Water Use
- 2007 IID Water Use
- 2006 IID Water Use

- 2005 IID Water Use
- 2004 IID Water Use
- 2003 IID Water Use
- SDCWA Transfer Accounting
- CVWD Transfer Accounting
- Salton Sea Mitigation Accounting
- CRWDA Exhibit C Accounting
- IOPP Accounting
- ICS Accounting
- Provisional Lake Mead Accounting
- Total Fallowing
- SDCWA Transfer Fallowing
- Salton Sea Mitigation Fallowing
- CRWDA Exhibit C Fallowing
- IOPP Fallowing
- Early CRWDA Exhibit C Fallowing
- Intentionally-Created Surplus By Fallowing
- Total Efficiency Conservation
- SDCWA Efficiency Conservation
- CVWD Efficiency Conservation
- IOPP Efficiency Conservation
- ICS Efficiency Conservation
- SDCWA Diversion at Parker Dam Accounting

- CVWD Diversion at Parker Dam Accounting.

The BOR provides IID and other users of Colorado River water with annual Colorado River accounting and water use reports containing the information requested in Condition No. 4 (a)-(d). The 2009 provisional data can also be found on the BOR website at http://www.usbr.gov/lc/region/g4000/hourly/use07.pdf. The BOR does not generally complete its annual reports until approximately May or June of each year, and IID has not yet received the final BOR 2009 annual report. IID received the final BOR 2004 and 2005 reports in 2006, the final 2006 report in October 2007, the final 2007 report in December 2008, and the final 2008 report in August 2009. These reports can be viewed on the BOR website at http://www.usbr/lc/region/g4000/wtracct.html. Attached as Appendix 5 is a reconciliation of the BOR final decree reporting numbers compared to those reported by IID in its 2004, 2005, 2006, 2007 and 2008 SWRCB Annual Reports. No material changes occurred. All differences are nominal compared to the provisional amounts previously reported by IID, with one exception for the 2007 gross diversion by MWD at Whitsett Intake, which variation had no relationship to IID's compliance with the SWRCB-approved transfers. Additionally, IID and the BOR had differing perspectives on how to calculate certain canal delivery losses which were resolved in December 2007. A copy of the resolution correspondence is attached as Appendix 11 to the 2008 Annual QSA Water Report. The resolution reduced the yield of IID's 2004 to 2006 fallowing program by 1,375 AF as reflected on page 11 of the 2008 Annual QSA Water Report, but did not affect the volume of conserved water transferred or used to mitigate impacts on the Salton Sea. IID will revise the 2009 SWRCB Annual Report should the final BOR 2009 report or the resolution of any other open issues with the BOR materially change any of the reported information herein.

The most recent "provisional" information from the BOR for 2009 is contained in Appendix 1. Pursuant to the information in that report, IID responds to Condition 4(a)-(d) as follows:

(a) 2,683,184 AF diverted at Imperial Dam.

(b) 111,223 AF measured return flows to Colorado River.

(c) IID has an IOPP account allowing variation in consumptive use above 3.1 MAFY in the aggregate volume of 310,000. IID inadvertently overran in 2003 in the amount of 6,102 AF. The payback of all overruns in the Lower Basin States for 2003 was waived by BOR. IID had no overrun under the IOPP for 2004 or 2005. As of the end of 2006, IID had an inadvertent overrun account balance in the amount of 17,914 AF, prior to a reduction to 8,957 AF as a result of unused entitlement by Nevada available to IID pursuant to Article II(B)(6) of the Decree in Arizona v. California. IID had an inadvertent overrun in 2007 in the amount of 6,358 AF. IID has paid back all of its overrun and slightly more as evidenced in Appendix 1. For 2008, IID had an underrun of approximately 49,000 AF. For 2009, IID had an underrun of approximately 230,000 AF.

(d) Gross Diversions at Whitsett Intake – 1,107,683 AF (return flow credit of 2,451 AF). Diversions at Whitsett Intake, pursuant to the Order – 60,000 AF.

Condition 4(e)-(g). Pursuant to the fallowing contracts in effect for 2009, IID estimates that it reduced deliveries to participating farmers by approximately 90,133 AF as measured at the Colorado River, net of return flows, and estimates the quantity of water conserved by fallowing for transfer to SDCWA in 2009 at 60,000 AF. 8,000 AF of water was conserved by efficiency-based conservation measures for transfers in 2000 pursuant to Revised Order WRO 2002-013. Efficiency-based conservation measures implemented pursuant to Order WR 88-20 generated

105,000 AF of conserved water that was transferred to MWD. Appendix 2 identifies the type of efficiency-based conservation measures utilized to create the conserved water transferred to MWD.

B. Salton Sea Habitat Conservation Strategy Compliance

Condition Nos. 5 and 6, p.86 of the Order requires the preparation of a plan and annual reporting on Salton Sea Salinity and elevation, and implementation of the Salton Sea Habitat Conservation Strategy as described in the Final EIR. On October 23, 2003, IID petitioned the Chief of the Division of Water Rights to modify Condition Nos. 5 and 6 to be consistent with an alternate Salton Sea Habitat Conservation Strategy utilizing a specific fallowing-for-transfer schedule and a fallowing-for-mitigation schedule as reflected in the QSA and Related Agreements and the September 2003 Amended and Restated Addendum to the Final EIR/EIS. After allowing for comment on IID's request and consideration of all submitted material, on January 7, 2004, the Chief of the Division of Water Rights approved IID's use of the Alternate Salton Sea Habitat Conservation Strategy. In essence, under this alternate strategy, IID will create conserved water by fallowing in addition to the conserved water transferred to SDCWA, on an annual schedule attached as Appendix 3, and cause the delivery of mitigation water to the Salton Sea. This strategy will mitigate salinity and elevation impacts of IID's water transfers to SDCWA for up to 15 years by causing replacement inflow to the Salton Sea to offset the reduced inflow caused by such transfers to SDCWA.

As Appendix 3 illustrates, IID was to create 5,000 AF of conserved water by fallowing in 2003 for Salton Sea mitigation purposes. However, authorization to utilize this alternative mitigation strategy was not received by IID until early January 2004. On December 19, 2003, IID informed the Chief of the Division of Water Rights of its intent to "roll over" the 2003 mitigation water into 2004, and no objection was received. Thus, for 2003, IID did not

implement Condition Nos. 5 and 6, as now modified, but added 5,000 AF to its mitigation obligation for 2004. IID produced a total of 15,000 AF for Salton Sea mitigation purposes in 2004.

IID delivered 14,359 AF of fallowed conserved water to the Salton Sea in calendar year 2004. This volume is 641 AF less than IID's delivery obligation and 641 AF less than reported to the SWRCB in the 2004 Annual Report. The explanation for this discrepancy is as follows. All volumes for transferred conserved water, mitigation fallowing, and delivery of mitigation water to the Salton Sea are in common units of consumptive use, as measured at Imperial Dam, net of measured and unmeasured return flows. The BOR reports to IID the volumes of measured and unmeasured return flows several months after the end of each calendar year. Therefore, IID is required to estimate the volumes of return flows during a calendar year when determining the volume of water to divert into the delivery path to the Salton Sea in satisfaction of the mitigation requirement. IID's diversion was low by the 641 AF total, based on the report of actual measured and unmeasured return flow received by IID from the BOR in 2005. However, IID made up this under-diversion to the Salton Sea in 2005 as evidenced in Appendix 1, and explained further below, as advance delivery. Salton Sea mitigation water was physically delivered to the Salton Sea by taking diversions from the Colorado River into the All-American Canal and then discharging the diversions into the New River. The mitigation volumes diverted were measured by a calibrated weir equation at the AAC New River turnout.

C. Advance Delivery of Salton Sea Mitigation Water in 2004 and 2005

At the request of the BOR and in consultation with Lower Basin Colorado River contractors, IID caused 15,880 AF of Colorado River re-regulation water to be conserved and delivered to storage in the Salton Sea in 2004. IID caused 21,476 of re-regulation water to be

conserved and delivered to storage in the Salton Sea in 2005. The letter agreement between BOR and IID describes the conservation of re-regulation water as follows:

> Water from Colorado River system storage spilled or released for flood control purposes, or released to fill a water order but not then diverted by an entitlement holder, might otherwise flow to the NIB [Northern International Boundary] in excess of Treaty obligations. Historically, when possible, this water has been subject to temporary re-regulation by Reclamation, for example when it has been captured and held in Senator Wash Reservoir. Operation of Senator Wash Reservoir has been restricted due to dam safety concerns.
>
> The purpose of temporary re-regulation is to permit the maximum amount of water from the Colorado River system to be put to beneficial use within the United States. Temporary re-regulation is consistent with Reclamation's goal of meeting but not exceeding Treaty obligations, and is consistent with the Decree in Arizona v. California, the 2003 Colorado River Water Delivery Agreement (CRWDA), the Inadvertent Overrun & Payback Policy (IOPP), and the Interim Surplus Guidelines (ISG). Temporary re-regulation provides Reclamation with critical flexibility in river management. The temporary re-regulation of river flow that otherwise would flow to the NIB in excess of Treaty obligations may be effected at the request of Reclamation, but only in the event the water cannot otherwise be stored by Reclamation works or diverted by an entitlement holder in satisfaction of an existing entitlement.
>
> In the latter part of 2004 and the early part of 2005, in response to heavy rainfall occurring in a watershed that is tributary to the lower Colorado River, Reclamation released water from Lake Havasu to protect the integrity of Parker Dam. Also, as a result of these rainstorms, water ordered by entitlement holders and released from Hoover Dam was not diverted. In an effort to prevent these releases from being lost to beneficial use within the United States as excess flows to the NIB, and in light of the current storage capacity limitation at Senator Wash Reservoir, Reclamation requested that IID capture a portion of this water and convey it to the Salton Sea. IID accommodated such a request from Reclamation in 2004 and 2005. Reclamation anticipates the possible need for additional temporary re-regulation of Colorado River water with the assistance of IID in 2006.

In the years subsequent to advance delivery, as identified on Appendix 1, water is conserved from fallowed lands in the amount identified in Appendix 3 and left in Lake Mead, rather than being diverted to the Salton Sea, as an exchange for the previously conserved and stored Colorado River re-regulation water. Advance deliveries of re-regulation water provide a temporal benefit to the Salton Sea by satisfying the cumulative mitigation delivery schedule identified in Appendix 3 in advance of the annual deadlines. An accounting of the water delivered to the Salton Sea in 2004 and 2005 as advance delivery of re-regulation water is contained in Appendix 1.

D. Salton Sea Mitigation Water for 2006

IID produced 20,000 AF of conserved water from fallowing in 2006, an amount equal to the volume that was to be delivered to the Salton Sea as transfer mitigation water under the schedule in Appendix 3. However, pursuant to terms of the re-regulation letter agreement between IID and BOR, and because of the advance deliveries described in Section C above, IID left the 20,000 AF of conserved water in Lake Mead rather than delivering the conserved water to the Salton Sea. As of the end of 2006, the Salton Sea had received 1,715 AF of advance delivery water earlier and in excess of the required mitigation schedule. An accounting of the water delivered to the Salton Sea as advance delivery of re-regulation water is contained in Appendix 1.

E. Salton Sea Mitigation Water for 2007

IID produced 23,306 AF of conserved water from fallowing in 2007 for Salton Sea mitigation, an amount slightly less than the volume that was to be delivered to the Salton Sea as transfer mitigation water under the schedule in Appendix 3. However, as can be seen from the Salton Sea Mitigation Accounting in Appendix 1, as of the end of 2007, the accounting for the 37,356 AF of advance delivery to the Salton Sea, the 641 AF of under delivery to the Salton Sea

in 2004, and the settling up by leaving fallowed conserved water in Lake Mead, has almost "zeroed out" the early mitigation water delivered to the Salton Sea in 2004 and 2005, leaving a net surplus of 21 AF of early mitigation water delivered to the Salton Sea as of the end of 2007.

F. Salton Sea Mitigation Water for 2008

IID produced 26,085 AF of conserved water from fallowing in 2008 for Salton Sea mitigation, an amount that was 1,085 AF in excess of the volume that was to be delivered to the Salton Sea as transfer mitigation water under the schedule in Appendix 3. As of the end of 2008, the IID had delivered a cumulative excess volume of 1,106 AF to the Salton Sea as transfer mitigation.

G. Salton Sea Mitigation Water For 2009

IID produced 30,158 AF of conserved water from fallowing in 2009 for Salton Sea mitigation, an amount that was 158 AF in excess of the volume that was to be delivered to the Salton Sea as mitigation water under the schedule in Appendix 3. As of the end of 2009, IID had delivered a cumulative excess volume of 1,264 AF to the Salton Sea as mitigation water.

Attached as Appendix 4 is a graph identifying Salton Sea elevation changes from January 1, 2006 through December 31, 2009.

H. Air Quality Mitigation

Condition No. 8, p.87, requires IID to implement the monitoring and mitigation plan for Salton Sea shoreline described on pp. 3-50 to 3-52 of the Final EIR/EIS; to implement best management practices (BMPs) to mitigate PM10 emissions associated with fallowing, as described in the Final EIR/EIS; to comply with any relevant requirements of the State Implementation Plan for PM10 Emissions (SIP) or PM10 rules of the Imperial County Air Pollution Control District (ICAPCD) or the South Coast Air Quality Management District (SCAQMD); and to report annually on actions taken to comply.

1. Exposed Salton Sea Shoreline Air Quality Mitigation

The delivery of Salton Sea mitigation water under the approved Alternative Salton Sea Habitat Conservation Strategy continued in 2009.

In 2009, IID continued the implementation of the four-step process for Salton Sea shoreline mitigation outlined in the Final EIR/EIS. As part of the 2009 implementation, IID completed the IID Air Quality Mitigation Plan (New Fields 2009) that includes details of an access restriction plan and descriptions of the proposed pilot projects designed to evaluate various dust emission control measures. As described in the plan, IID installed gates and signage at several playa access points along the playa and river deltas. IID also continued coordination with the ICAPCD to develop additional programs to address access control and to identify land ownership in the playa areas. IID also began coordination with the Torres-Martinez Desert Cahuilla Indians (Torres-Martinez) on plans for dust control measures on several IID-owned parcels at the north end of the Salton Sea.

As part of Step 2 (Research and Monitoring of the four-step air quality mitigation plan), IID completed the six-station Salton Sea Regional Air Monitoring System. The system, designed in cooperation with the State of California Air Resources Board, ICAPCD, Torres-Martinez and the air quality technical working group of the Salton Sea Ecosystem Restoration Program, it is compiling data that will be used to establish baseline and background information for the airshed, establish dispersal patterns and help to identify emissive areas around the Sea. Torres-Martinez and the ICAPCD are operating and maintaining the stations and the California Air Resources Board is compiling the data, and this effort is funded by the Transfer Project. The data will be available on the State of California website.

IID completed the initial development of the playa exposure model in 2009 and is waiting for completion of the bathometric study (scheduled for completion in late 2010) to complete the

model. IID also began coordination with other land owners and land managers in the Salton Sea basin to develop interim measures that might be used to mitigate dust emission on playa areas.

Additional description of the implementation of air quality mitigation requirements in 2009 is described in Section 2.3.9 of the 2009 Permit Report, attached as Appendix 9.

2. Fallowing-Caused PM10 Emission Mitigation

The implementation of BMPs to minimize PM10 emissions from fallowed lands below the level otherwise caused by farming the land was implemented in 2003 and continued in 2004, 2005, 2006, 2007, 2008 and 2009.

Exhibit D to the 2009 fallowing contracts provides the following:

> In order to satisfy mitigation and reporting requirements in accordance with the Transfer EIR (defined in Recital B), the Fallowing Party shall be responsible for and comply with the following requirements:
>
> 1. MITIGATION REQUIREMENTS
>
> A. In order to mitigate air quality impacts on Fallow Lands, only the Best Management Practices ("BMPs") recommended by the US Department of Agriculture Natural Resources Conservation Service and listed below will be considered for payment reimbursement. The Dust Control BMP(s) must be selected and approved by IID prior to implementation or July 1, 2009, whichever is earlier. Payment will be based on the Dust Control BMP Reimbursement Schedule issued annually by the IID.
>
> 1) Plan ahead to start with plenty of vegetation residue, and maintain as much residue on fallowed fields as possible. Residue is more effective for wind erosion protection if left standing.
>
> 2) Avoid any tillage if possible.
>
> 3) Avoid any traffic on the field or tillage when fields are extremely dry to avoid pulverization.
>
> 4) If residues are not adequate, small grain can be seeded about the first of the year to take advantage of

winter rains or soil stabilization chemicals may be applied to fallowed lands.

B. In addition to the above BMPs, in order to satisfy Imperial County dust control and mitigation requirements, Fallowing Party will comply with any lawful conditions required by the Imperial County Air Pollution Control District.

2. REPORTING REQUIREMENTS

Complete and return a Fallowing Program Mitigation Reporting Form (to be provided by IID) to the Manager of the Water Department of IID on or before July 31, 2009, and update the form before November 30, 2009, and July 31, 2010, verifying the method(s) used to satisfy the mitigation requirements set forth in Section 1 above and the total costs incurred by Fallowing Party therefore, including written documentation evidencing such costs.

The mitigation reporting forms submitted by fallowing participants to IID disclosed that all fallowed fields utilized BMPs as outlined by the U.S. Department of Agriculture Natural Resources Conservation Service. The IID is unaware of any reports of noncompliance or any enforcement activity by the ICAPCD or the SCAQMD with regard to fallowed fields.

The fallowing contracts also condition and limit payments to the Fallowing Party to compliance with the mitigation requirement. (See Sections 2A and 2B and 12.) A copy of a pro forma 2009 contract between participating farmers and the IID is attached as Appendix 6.

All 69 fields participating in the first thirteen-month fallowing program were inspected by IID in January 2004. In July 2004, all 118 of the newly-fallowed fields from the 2004 contracts, as well as the 69 fallowed fields from the 2003 contracts, were inspected by IID. In addition, in October 2004 IID assisted BOR in a verification of fallowed fields utilizing a random 5% acreage spot check. In January 2005, all 105 of the newly-fallowed fields from the 2005 contracts, as well as the 118 fallowed fields from the 2004 contracts, were inspected by IID. In addition, in October 2005, IID assisted BOR in a verification of fallowed fields utilizing a random 5% acreage spot check. In 2006, all 169 of the newly-fallowed fields from the 2006

contracts as well as the 105 fallowed fields from the 2005 contracts, were inspected quarterly by IID. In addition, in April and October 2006, IID assisted BOR in a verification of fallowed fields utilizing a random 5% acreage spot check, and BOR validated fallowing compliance. In 2007, all 150 of the newly-fallowed fields from the 2007 contracts as well as the 169 fallowed fields from the 2006 contracts, were inspected quarterly by IID. In addition, in April and October 2007, IID assisted BOR in a verification of fallowed fields utilizing a random 5% acreage spot check, and BOR validated fallowing compliance. In 2008, all 133 of the newly-fallowed fields from the 2008 contracts, as well as the 150 fallowed fields from the 2007 contracts, were inspected quarterly by IID. In addition, in April and November 2008, IID assisted BOR in a verification of fallowed fields utilizing a random 5% acreage spot check, and BOR validated compliance.

In 2009, 191 of the newly-fallowed fields from the 2009 contracts, as well as the 133 fallowed fields from the 2008 contracts, were inspected quarterly by IID. In addition, in April and November 2009, IID assisted BOR in a verification of fallowed fields utilizing a random 5% acreage spot check, and BOR validated compliance.

3. SIP, ICAPCD and SDCQMD PM10 Mitigation Compliance

The actions required of participating farmers by IID to mitigate air quality impacts caused by fallowing also satisfy and comply with any relevant and applicable requirements for PM10 emissions under the SIP and the rules of the ICAPCD and the SCAQMD.

I. Lower Colorado River Mitigation

On October 10, 2003, BOR, MWD and SDCWA entered into an agreement whereby SDCWA and MWD shall pay up to a total of $6.236 million in 2003 dollars to BOR, and BOR shall perform all measures required under the USFWS Biological Opinion for the Interim Surplus Criteria, Secretarial Implementation Agreements, and Conservation Measures on the

Lower Colorado River, Lake Mead to the Southerly International Boundary Arizona, California and Nevada (January 12, 2001). On November 7, 2003, SDCWA established the account from which BOR may withdraw funds to pay for work in furtherance of satisfying the BO mitigation measures. The Lower Colorado River Conservation Measures have been substantially completed. BOR is monitoring compliance and no new activity is currently contemplated.

J. Tamarisk Scrub Habitat Conservation Strategy

IID continued to implement the two-part preconstruction survey protocol for areas with the potential to contain tamarisk scrub habitat. In 2009, approximately one acre of tamarisk scrub habitat was permanently impacted by construction activities (resulting in a native tree habitat mitigation requirement of 0.75 acres, based on the post-impact mitigation ratio included in the Tamarisk Scrub Habitat Conservation Strategy.) Approximately four acres of tamarisk scrub habitat was permanently impacted by the seepage recovery program. Of the total impact from the seepage recovery projects, three acres of impact occurred in 2008 and one acre was impacted in 2009. Based on the mitigation ratio included in the Conservation Strategy, approximately three acres of native tree habitat mitigation is required.

IID created approximately 17 acres of native tree habitat in the buffer areas of the Managed Marsh (described in Section II.K below) in October 2009. This habitat is comprised of mesquite (*Prosopis* spp.) and a cover crop of Bermuda grass (*Cynodon* spp.) and/or salt grass (*Distichlis spicata*) with annual rye (*Lolium* spp.) as a temporary cover. After applying the 3.75 acres of native tree mitigation required from past impacts to tamarisk scrub habitat from construction activity and the seepage recovery projects, approximately 13.25 acres of native tree mitigation credit is available for future impacts to tamarisk scrub or native tree habitat.

A more detailed description of the Tamarisk Scrub Habitat Conservation Strategy implementation for 2008 is described in Section 2.3.2 and related mitigation Measures (MM) of

the Imperial Irrigation District Water Conservation Transfer Project Annual Report, In-Valley Permits, March 31, 2009 (2009 Permit Report), attached as Appendix 9.

K. Drain Habitat Conservation Strategy

IID continued with implementation of the various requirements of the Drain Habitat Conservation Strategy. Phase I of the Managed Marsh habitat complex was completed in October 2009. Phase I, located south of Niland, California, is bordered to the north by the P Lateral water delivery canal and Hazard Road, to the west by English Road and to the east by Highway 111. The site is bordered to the south by McDonald Road and the Managed Marsh Phase II parcels. Phase I is an approximately 365-acre complex of desert riparian, emergent wetland and scrub-shrub bosque habitat. IID also completed development of the preliminary Adaptive Management Plan for the site and is reviewing and editing the plan in coordination with the Implementation Team (IT) established to implement biological mitigation measures for the Transfer Project. Additionally, IID began the development of necessary documentation to transfer ownership of the Managed Marsh site to CDFG.

A more detailed description of the Drain Habitat Conservation Strategy implementation for 2008 is described in Section 2.3.3 and related Mitigation Measures (MM) of the 2009 Permit Report, attached as Appendix 9.

L. Desert Pupfish Conservation Strategy

IID completed the draft construction plans for the refugium (to be located at the IID fish grow-out facility on Villa road in El Centro, CA). The IT is in the process of reviewing the plans and will provide comments in early 2010. The IT is also in the process of identifying a potential donor desert pupfish (*Cyprinodon macularius*) population for the refugium.

IID completed the four-year United States Geological Survey – Western Fisheries Research Center (Western Fisheries) study on water quality in agricultural drains directly

tributary to the Salton Sea. The study monitored selenium concentrations and other limited parameters in water and tissue to identify annual and seasonal variations in constituent concentrations. The IT reviewed the draft Western Fisheries report in 2009. The final report will be available in April 2010. Additionally, Western Fisheries completed the field and laboratory analysis of the stomach content study of surrogate and desert pupfish. Completion of the data analysis and the development of a final report (2010) will help to establish correlations between the uptake of dietary selenium in the surrogates and the pupfish.

The United States Geological Survey – Columbia Environmental Research Center completed the laboratory bioassay portion of the Desert Pupfish Dietary Selenium Toxicity study (CERC Toxicity Study) in 2009. The final review and statistical analysis of the data is under review and a final report will be completed in 2010.

In 2009, IID mitigation aides started field training in the desert pupfish trapping protocol from California Department of Fish and Game fishery biologists. When the training is completed in early 2010, IID will implement the final version of the desert pupfish trapping and monitoring protocol as soon as it is approved by the IT. (The draft version of the protocol was approved in 2007.) Data developed from the pupfish trapping will be compiled with the data previously collected by CDFG, Western Fisheries, CERC and other agencies and used to develop a better understanding of the dynamics of the desert pupfish population at the Salton Sea.

A more detailed description of the Desert Pupfish Conservation Strategy implementation for 2008 is described in Section 2.3.6, subparagraphs 1-2 and related Mitigation Measures (MM) of the 2009 Permit Report, attached as Appendix 9.

M. Razorback Sucker Conservation Strategy

The IT approved a relocation protocol for razorback suckers in 2005. No razorback sucker relocation was required in 2009 as part of the IID Transfer Project (See Section 2.3.7 and related Mitigation Measures of the 2009 Permit Report attached as Appendix 9).

N. Selenium Concentrations, Discharge and Reduction Study

IID continued the implementation of the study plan for the Selenium Fate and Transport Study approved by the State Water Resources Control Board. The initial phases of the study are completed and IID is in the process of compiling the USGS-developed data (See Desert Pupfish Conservation Strategy) and available cropping and water use data for the fields associated with the agricultural drains tributary to the Salton Sea. An analysis is underway to identify correlations between selenium concentrations in water and tissue in the drains with cropping patterns, irrigation water use, and tail/tile water discharge. This effort will be completed in 2010 and a final report prepared. The report will make recommendations for future management actions and/or additional studies required.

A more detailed description of the Selenium Concentrations, Discharges and Reduction studies for 2009 is described in Section 2.3.6 subparagraphs (1-3) and related Mitigation Measures (MM) of the 2009 Permit Report, attached as Appendix 9.

O. Recreation and Aesthetics Mitigation

Reduction in Salton Sea water elevations as a result of the Transfer Project will not commence until 2018, at the earliest, because of the utilization of the Alternate Salton Sea Strategy described above. Therefore, no relocation of boat launch and access facilities or campgrounds was necessary during 2008. IID began the preparation of documentation required to obtain the necessary permits, authorizations and agreements required to implement the relocation or extension of boat launching and recreation facilities at the Salton Sea.

III. ADDITIONAL INFORMATION

In addition to the information requested by the Order, the IID believes the SWRCB would benefit from receipt and review of the following information:

A. IID QSA and Transfer Public Reporting

In order to keep the public fully informed, the IID has initiated a reporting process that includes an annual report and an efficiency conservation progress report. Near the end of 2005, IID released its first Quantification Settlement Agreement, Imperial Irrigation District/San Diego County Water Authority Water Conservation and Transfer Agreement Annual Implementation Report 2004 ("IID Annual Implementation Report"). The IID will release each year an IID Annual Implementation Report that describes the annual activities and progress, from October 2003, by IID to implement the QSA and conserved water transfers, provides a water accounting, includes a financial accounting, and summarizes environmental mitigation activities. The 2005 IID Annual Implementation Report was released in December 2006. The 2006 IID Annual Implementation Report was released in October 2007. The 2007 IID Annual Implementation Report was released in November 2008. The 2008 IID Annual Implementation Report was released in November 2009, and is attached as Appendix 8.

In addition, IID commenced the preparatory work necessary to commence efficiency conservation in 2008 and be fully ramped up and producing 303,000 AFY of efficiency conservation by 2026, as set forth on Appendix 3. The design, analysis and effort to implement such a substantial undertaking is both complex and extensive, and conducted under the rubric Efficiency Conservation Definite Plan ("Definite Plan"). The Definite Plan was completed in May 2007 and approved by the IID board of Directors in June 2007. The Definite Plan defined a specific range of efficiency conservation projects to be built, associated costs, and a schedule consistent with the schedule contained in Appendix 3. The Definite Plan also identified near-

term actions for implementation of the Efficiency Conservation Program. The near-term actions are underway. To keep the public updated on this effort, the IID has periodically produced and disseminated a newsletter entitled "The QSA & Conserved Water: The Latest News About The Efficiency Conservation Definite Plan," as well as held public workshops. The newsletters, public workshop PowerPoint presentations, and other efficiency conservation planning and design implementation progress can be found at the IID or Definite Plan websites: www.iid.com/Water/EfficiencyConservationProgram or www.definiteplan.com.

IID commenced construction of the Main Canal Seepage Recovery Project improvement in 2007. Completion occurred in 2008. Calendar year 2008 conserved water yield was 8,232 AF, which was used to satisfy the 4,000 AF of conserved water transferred to CVWD in 2008 and for IOPP payback obligations. The BOR inspected and verified the creation of conserved water by inspecting and measuring metered water volumes for two randomly selected seepage interceptor pumps in April 2008. Calendar year 2009 efficiency conserved water yield was 21,797 AF, which was used to satisfy 8,000 Af of transfer obligation to CVWD, 1,797 of IOPP payback obligation, and 12,000 of ICS storage.

B. IID Inventory of Areas Receiving Water

The draft annual crop report and draft acreage and inventory of areas receiving water for 2009 are attached as Appendix 10. This annual survey identifies acreage by crop type, multiple cropped acreage, fallowed acreage, and nonfarming acreage receiving water for the calendar years 2006, 2007 and 2008.

C. Socioeconomic Impacts of Fallowing

IID and SDCWA disagreed about how socioeconomic impacts are to be determined under the provisions of the IID/SDCWA Transfer Agreement, as amended. Pursuant to the provisions of their transfer agreement, IID and SDCWA arbitrated the dispute before a private

arbitration panel comprised of three retired judges in the Spring of 2007. Resolution by compromise was reached after the completion of the arbitration, but before the arbitration decision was released. The compromise is reflected in a Settlement Agreement Resolving Present And Future Disputes Under Sections 14.5 And 18.1 Of The Revised Fourth Amendment To The IID/SDCWA Conserved Water Transfer Agreement dated May 7, 2007 and attached hereto as Appendix 12. Payments by SDCWA have been timely made in accordance with the compromise payment schedule. To date, approximately $7.24 million has been distributed by the Local Entity to help mitigate socioeconomic impacts associated with fallowing utilized to create conserved water for SDCWA or to mitigate impacts on the Salton Sea from the conserved water transfer to SDCWA. A process for further identification of impacts and distribution of mitigation payments is underway.

D. QSA Validation Litigation

IID commenced a validation action to validate 13 specific QSA-related contracts which IID had signed. IID did not seek to validate all 35 QSA and Related Agreements, and no other QSA contract party sought to validate any of the QSA contracts. Other related litigation challenging CEQA compliance was coordinated with the validation action in Sacramento County Superior Court ("Superior Court"). After dismissal of one CEQA action filed by the County of Imperial ("County"), the County sought and obtained a writ staying the validation action for two and one-half years. After the Appellate Court affirmed the dismissal and lifted the stay, the validation action resumed. Trial commenced in November 2009, and concluded in December 2009.

The Superior Court issued a Statement of Decision and Judgment which invalidated the Quantification Settlement Agreement Joint Powers Authority Creation and Funding Agreement ("QSA-JPA Agreement") on the sole basis that the contingent contractual commitment of the

State of California, by and through the Department of Fish and Game, to pay for conserved water transfer mitigation costs, if any, above the costs to be paid by IID, SDCWA and CVWD was an unconstitutional violation of Article 16, sections 1 and 7, imposing a debt limit and appropriation requirement for State contractual promises. The Superior Court invalidated 11 other QSA contracts (including the Quantification Settlement Agreement and all IID conserved water transfer agreements) on the basis that they would not have been entered without a valid QSA-JPA Agreement. The Superior Court dismissed as moot all related CEQA cases.

An appeal was filed by IID, SDCWA, CVWD, MWD, Vista Irrigation District, City of Escondido, and the State of California. The appellants sought a stay of the Superior Court Judgment (or confirmation that an automatic stay was created by the appeal). The Appellate Court issued a temporary stay pending further order, allowed stay opponents until April 1, 2010 to file opposition, stay proponents until April 16, 2010 to file a reply, and then will issue a further stay ruling. There is no schedule yet for the filing of appellate briefs or oral argument.

IV. CONCLUSION

This 2009 Annual Report is based on the information available to the IID at the time of its preparation. IID staff and consultants are available to answer any questions that the Chief of the Division of Water Rights may have. For further information, please contact the following:

John R. Eckhardt Ph.D., P.E.
Imperial Irrigation District
Executive Program Manager
IID/SDCWA Water Transfer-QSA
P.O. Box 937
Imperial, CA 92251
(760) 339-9736 (phone)
jreckhardt@iid.com (email)

Tina Anderholt Shields, P.E.
Imperial Irrigation District
Assistant Water Dept. Manager
P.O. Box 937
Imperial, CA 92251
(760) 339-9038 (phone)
tshields@iid.com