



subsequent revision and should not be considered a volume limitation for purposes of IID's annual consumptive use or diversion calculation.

Also significantly, for purposes of the 2011 estimate, there is some degree of uncertainty surrounding the QSA and implementation of the various agreements, transfers and environmental mitigation programs related to the QSA. As you know, on February 11, 2010, the Superior Court for the County of Sacramento entered a judgment that invalidated the QSA, the related water transfer agreements between IID and SDCWA, CVWD, and MWD, and invalidated the QSA-JPA Agreement related to funding for QSA related environmental mitigation. IID and others appealed the judgment and obtained a stay of that judgment that will last for the duration of the appeal. Appellate briefing will be complete by mid December, 2010, oral argument is expected in the first quarter of 2011, and a decision is expected by mid-year 2011. If the Judgment is reversed, trial will presumably resume in 2011 on matters not yet decided affecting validity and environmental review compliance. If the Judgment is affirmed, there may be requests for review by the California Supreme Court and for the granting of a stay during that period, but neither Supreme Court review nor a further stay is assured. IID also expects that the pending QSA-related litigation in the U.S. District Court in San Diego by the County of Imperial and its Air District against the U.S. and QSA signatories challenging the U.S. compliance with NEPA and the Clean Air Act prior to the Secretary's approval and execution of the CRWDA, and seeking to set aside that agreement, will also be completed in 2011.

Thus, for IID water conservation programs and mitigation water creation programs that rely on contracts with farmers, which utilize a July 1 to June 30 contract year consistent with most farm plans and leases, 2011 poses a significant contracting difficulty and significant risk to IID if it issues contracts for the July 1, 2011 to June 30, 2012 period. Furthermore, the QSA related uncertainty caused by the litigation also directly affects the funding ability and assurances of the QSA JPA for reimbursements to IID for implementing the required mitigation activities. This 2011 estimate of IID consumptive use and conserved water transfers attempts to take these uncertainties and risks into account as well.

Thus, IID submits this water order without limiting IID's 2011 water rights. However, IID acknowledges that the QSA itself, assuming its continued viability, provides an annual volume limitation. Pursuant to that agreement, IID quantified its Priority 3 consumptive use at a maximum of 3.1 million acre-feet per year during the term of the QSA. IID anticipates (but does not limit itself except by the terms of the QSA) a consumptive use need of 2,773,536 acre-feet for 2011. Pursuant to the QSA, and assuming implementation of the QSA as agreed to by all other parties without material changes or failure, IID's estimated water order for 2011 is as follows:

<b>IID 2011 Estimated Consumptive Use<sup>1</sup> Table in Acre-Feet (September 15, 2010)</b>	
Priority 3 Cap	3,100,000
Miscellaneous PPR's	(11,500)
1988 IID/MWD Agreement <sup>2</sup>	(105,000)
IID/SDCWA Transfer	(80,000)
Salton Sea Mitigation <sup>3</sup>	(0)
AAC Lining	(67,700)
IID/CVWD Transfer	(16,000)
Estimate of Additional Conserved Water <sup>4,5,6,7</sup>	(25,000)
<b>Total IID 2011 Consumptive Use<sup>1</sup> Estimate</b>	<b>2,794,800</b>

<b>IID 2011 Estimated River Diversion Table in Acre-Feet</b>	
Total IID 2011 Consumptive Use <sup>1</sup> Estimate	2,794,800
2011 Estimated Consumptive Use <sup>1</sup> met by LCWSP <sup>8</sup>	(4,380)
<b>Total IID 2011 Consumptive Use<sup>1</sup> Estimate at River</b>	<b>2,790,420</b>

<sup>1</sup> Consumptive uses include uses for agricultural, municipal, industrial, environmental, environmental mitigation and storage purposes.

<sup>2</sup> In 2007 (by agreement between IID and MWD), the annual conservation yield of the 1988 IID/MWD Agreement was fixed at 105,000 AF. This value may decrease in 2010 if certain Tailwater Return Systems are not continuously operated decreasing the project's conservation yield.

<sup>3</sup> IID will consumptively use 26,400 AF in 2010, without exceeding IID's 2010 consumptive use limit, to deliver early mitigation water to the Salton Sea for 2011, in advance of the mitigation obligation for calendar year 2011, consistent with the early delivery of mitigation water to the Salton Sea by IID in 2004 and 2005 done at the request of Reclamation. This early delivery of mitigation water is for the purpose of reducing the cost of environmental mitigation in light of the QSA litigation concerns affecting mitigation funding by the State of California, and in light of the uncertainty IID faces in contracting to create mitigation water because of the QSA litigation.

<sup>4</sup> Additional conserved water uses include Intentionally Created Surplus (ICS), inadvertent overrun payback (IOP), early IOP payback on behalf of another Colorado River contractor, groundwater storage, groundwater recharge, storage in the Salton Sea, delivery of ICS to meet water transfer obligations, and/or other allowed uses of conserved water. This estimate will be adjusted and specific uses defined more appropriately as the year progresses.

<sup>5</sup> The truing up of all 2010 and 2011 fallowing and main canal seepage interception program yields after year-end may require an adjustment to this volume, as would approval of any requested II(B)(6) water to reduce IID's 2010 overrun obligation should it exist.

<sup>6</sup> Final contracting of IID's 2011-2012 Fallowing Program and a true-up of all 2010 IID fallowing and other conservation program yields at year end will require an adjustment to this volume.

<sup>7</sup> Pursuant to Section 3.B.9 of the Interim Guidelines for the Operation of Lake Powell and Lake Mead, IID's estimated volume of ICS water may decrease in 2011 with the appropriate notifications.

<sup>8</sup> 2011 order not yet received from LCWSP contractors. However, IID estimates that it will be requested to maximize this project's yield, which is estimated to be 4,380 acre-feet annually for the only currently operating (west) pump. Actual pumped volumes and projections should be updated by Reclamation throughout 2010.

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This 2,773,536 AF of consumptive use at Imperial Dam (net of return flows) will require a larger volume diversion from the Colorado River in 2011 that is calculated based on IID's monthly diversion schedule. This monthly breakdown of diversion requirements will be provided under separate cover. Any changes to the actual 2011 LCWSP pumping will, of necessity, result in changes to IID's actual Colorado River diversion and the associated return flow credit estimate. This annual water order estimate is based upon average conditions for rainfall, salinity and likely 2011 cropping patterns, including multiple cropped acreage and normal economic conditions in crop markets. Actual diversions in 2011 will, of necessity, reflect changed circumstances as they evolve including the final contracting of the 2011-2012 Following Program, the truing up all IID following and other conservation program yields at year end, and the eventual developments in the QSA litigation.

Finally, please let this letter serve as a request by IID for any unused apportionment available to California in 2011 under Section II(B)(6) of the United States Supreme Court Decree, to be used for reducing any inadvertent Overrun of IID's in 2011. Reclamation has informed IID that requests for II(B)(6) water need to be made in the calendar year in which II(B)(6) water is available, however IID believes that informing Reclamation as early as possible of its desire for II(B)(6) water can only be helpful to Reclamation's administration of the Colorado River. As such, IID provides this *early* notice of its request with the understanding that, similar to its inability to exactly predict now how much IID will consumptively use in 2011 because of the number of variables that can affect IID's consumptive use, Reclamation cannot accurately predict how much or whether there will be any II(B)(6) water available to satisfy IID's request. We appreciate Reclamation's willingness to keep IID informed about this, and IID will reiterate its request for II(B)(6) water in 2011 for Reclamation's convenience.

If you have any questions regarding these issues, please contact Tina Shields at 760-339-9038.

Sincerely,



BRIAN J. BRADY  
General Manager