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September 17, 2012

Mr. Terry Fulp, Regional Director
Bureau of Reclamation
Lower Colorado Regional Office
Attn BC00-4200
P.O. Box 61470
Boulder City, NV 89006-1470

Dear Terry:

Subject: IID Estimates of Diversion – Colorado River 2013
(Ref. BCOO-4226/WTR 4.03)

This letter responds to the Bureau of Reclamation's request to the Imperial Irrigation District for an estimate of IID's 2013 expected water use. This estimate constitutes IID's water order for 2013. This letter utilizes the *Accounting Methodology for IID Canal Losses Key Terms of Agreement* dated October 3, 2007 between IID and Reclamation. Should there be any changes to this methodology, it may or may not require further revision to the 2013 water order.

This water order should be considered by Reclamation in the context of the signed Quantification Settlement Agreement and the reservation of legal positions contained in the dismissal of IID v. USA, et al. As historically recognized by Reclamation and the position of many other Colorado River contractors, water orders submitted in advance of the water year are merely estimates of anticipated water use that may need adjustment based on a variety of variables that impact water use during the course of a year. No Colorado River contractor can predict exactly what it will need the following year; it can only make an educated guess. Thus, water orders may require subsequent revision and should not be perceived as a volume limitation on the annual exercise of the water right. Similarly, the exact volume and proposed uses of conserved water cannot be determined or accurately predicted in advance of any water conservation program's startup and final contracting. The final calculation of actual conserved water yields are dependent on year-end crop water use, rainfall, and delivery records that are not available prior to the conclusion of the current calendar year. Contracting parameters and conserved water requirements for 2013 are also dependent on Reclamation's or third-party measurement, reporting, and calculation of IID's diversions, return flow credits, and consumptive uses for the current and previous water years. The accuracy and timeliness of these final measurement and Decree Accounting records are a significant factor in IID's estimates, such that they may require 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 2013 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, although likely less than that expressed in IID's 2012 water order. As you know, in 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 environmental mitigation. IID and others appealed the judgment and obtained a stay of that judgment. Late last year the Third District Court of Appeal reversed the judgment of invalidity, and remanded the case back to the Superior Court for trial of all remaining issues. However, one party (Cuatro del Mar) sought relief in the United States Supreme Court, which request is still pending. Assuming that is soon denied, the QSA cases are scheduled to be tried in Superior Court in November of this year although an actual ruling may not occur until the first quarter of 2013.

Additionally, the U. S. District Court ruled in favor of the QSA in a case in San Diego brought by the county of Imperial and its air district against the United States and QSA signatories, challenging the compliance with NEPA and the Clean Air Act prior to the Secretary's approval and execution of the CRWDA, and is seeking to set aside that agreement. The county and air district appealed, and a ruling from the Ninth Circuit is likely in 2013.

Thus, for IID water conservation programs and mitigation water creation programs that rely on contracts with farmers, which generally utilize a July 1 to June 30 contract year consistent with most farm plans and leases, 2013 again poses a significant contracting difficulty and risk to IID for pending and new contracts involving calendar years 2013 and beyond. 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.

Thus, IID submits this water order without limiting IID's 2013 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 2,632,800 to 2,657,800 acre-feet for 2013. This range of estimates is intended to address the consumptive use needs for IID in 2013 assuming a bookend of circumstances regarding the level of contracting for upcoming fallowing and conservation programs identified in IID's proposed Intentionally Created Surplus and 2011 payback plans. 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 2013 is as follows:

IID 2013 Estimated Consumptive Use¹ Table in Acre-Feet (September 17, 2012)	
Priority 3 Cap	3,100,000
Miscellaneous PPR's	(0-11,500)
1988 IID/MWD Agreement ²	(105,000)
IID/SDCWA Transfer	(100,000)
Salton Sea Mitigation	(70,000)
AAC Lining	(67,700)
IID/CVWD Transfer	(26,000)
Estimate of Additional Conserved Water ^{3,4,5,6}	(62,000-87,000)
Total IID 2013 Consumptive Use¹ Estimate Range⁷	2,632,800-2,657,800

IID 2013 Estimated River Diversion Table in Acre-Feet	
Total IID 2013 Consumptive Use ¹ Estimate Range ⁷	2,632,800-2,657,800
2013 Estimated Consumptive Use ¹ met by LCWSP ⁸	(6,460)
Total IID 2013 Consumptive Use¹ Estimate Range⁷ at River⁸	2,626,340-2,651,340

¹ Consumptive uses include uses for agricultural, municipal, industrial, environmental, environmental mitigation and storage purposes.

² In 2007 (by agreement between IID and MWD), the annual conservation yield of the 1988 IID/MWD Agreement was fixed at 105,000 AF. The conservation yield attributable to the Project 18 (Tailwater Return Systems) component of the IID/MWD Agreement is 3,500 AF provided it is at full operation. However this yield can be reduced to the amount conserved if the project is at less than full operation. This reduction (of 1.060 AF to 2,440 AF) occurred in 2011, and is likely to occur in both 2012 (reduction of approximately 860 AF to 2,640 AF) and 2013 (reduction of an estimated 850 AF to 2,650 AF) unless current circumstances or conditions change.

³ 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.

⁴ The truing up of all 2012 and 2013 following 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 any IID overrun obligation should it exist.

⁵ Final contracting of IID's 2012-2013, 2013, and 2013-2014 Following Programs and a true-up of all 2012 IID following and other conservation program yields at year-end will require an adjustment to this volume.

⁶ 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 2013 with the appropriate notifications.

⁷ This range of estimates is intended to address the consumptive use needs for IID in 2013 assuming a bookend of circumstances regarding the level of contracting for upcoming following and conservation programs identified in IID's proposed Intentionally Created Surplus and 2011 payback plans.

⁸ 2013 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 6,460 acre-feet annually based on data provided from August 2012 pump efficiency tests. Actual pumped volumes and projections should be updated by Reclamation throughout 2013.

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This 2,632,800 to 2,657,800 acre-feet of consumptive use at Imperial Dam (net of return flows) will require a larger volume diversion from the Colorado River in 2013. Any changes to the actual 2013 LCWSP pumping will, of necessity, result in changes to IID's actual Colorado River diversion and the associated return flow credit estimate, while the use of any in-lieu flows from the Warren H. Brock Reservoir in 2013 will require reductions to IID's actual Colorado River diversions and consumptive use accounting volumes at Imperial Dam. This annual water order estimate is based upon average conditions for rainfall, salinity and likely 2013 cropping patterns, including multiple cropped acreage and normal economic conditions in crop markets. Actual diversions in 2013 will, of necessity, reflect changed circumstances as they evolve including the final contracting of any 2013 following programs, the truing-up of all IID following and other conservation program yields at year-end, and the eventual developments in the QSA litigation.

This letter should also serve as a request by IID for any unused apportionment available to California in 2013 under Section II(B)(6) of the United States Supreme Court Decree, to be used for reducing any inadvertent overrun of IID's in 2012. 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 2013 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 2013 if requested for Reclamation's convenience.

Finally, attached to this water order is a monthly breakdown of IID's estimated 2013 water order intended for use by Reclamation's operational staff. These consumptive use estimates are prorated using historical monthly data and are subject to change based on actual water demands and conditions in 2013. Questions regarding operational data should be referred to IID's watermaster, Merlon Kidwell, at (760) 339-9074 or mlkidwell@iid.com.

If you have any questions regarding these issues, please contact me at (760) 339-9038 or tshields@iid.com.

Sincerely,



Tina Anderholt Shields, PE
Interim Colorado River Resources Manager

cc: GM/Water Manager/Watermaster
Chris Harris, CRB

**IID 2013 Estimated Monthly Consumptive Use Table
 (September 17, 2012)**

	Historical Proration	Estimated Consumptive Use Range (acre-feet)	
January	4.85%	127,251	128,463
February	5.01%	131,701	132,954
March	9.61%	252,467	254,870
April	11.06%	290,444	293,209
May	11.10%	291,581	294,356
June	10.21%	268,068	270,620
July	11.26%	295,626	298,440
August	10.09%	264,911	267,433
September	8.61%	226,256	228,410
October	8.14%	213,821	215,856
November	5.78%	151,910	153,356
December	4.28%	112,304	113,373
2013 Total	100.00%	2,626,340	2,651,340