



United States Department of the Interior

BUREAU OF RECLAMATION
Washington, DC 20240

NOV 13 2012

IN REPLY REFER TO:

96-42030
ADM-1.10

Mr. Kevin E. Kelley
General Manager
Imperial Irrigation District
P.O. Box 937
Imperial, California 92251

Dear Mr. Kelley:

Thank you for your letter of November 7, 2012, regarding ongoing implementation of the Colorado River Water Delivery Agreement (CRWDA) and for taking the time to discuss various Colorado River issues on November 2nd during the National Water Resources Association (NWRA) conference. I particularly appreciated your commitment to prioritize working together in partnership on the various issues that are under active discussion and engagement in the Lower Basin.

As you note in your letter, Reclamation has been actively working with all parties to this historic agreement to assess opportunities for actions that are acceptable to all of the parties to that agreement to ensure that the identified conservation and transfer actions are fully implemented on the schedule set forth in the CRWDA.

In your letter you make a commitment that given the recent actions initiated by the Imperial Irrigation District (IID), further advance mitigation transfers of the Salton Sea Mitigation Transfer set forth in Col. 7 of Ex. B to the CRWDA are not envisioned to take place during the period from 2013-17. Your letter also addresses IID's perspective on the need and timing for actions to address the advance delivery that took place in 2010. Your letter also reiterates IID's position, consistent with previous correspondence, that the advance transfer that IID initiated in 2010 was both legal and appropriate under applicable agreements and law.

We appreciate your commitments in this regard, but want to clearly establish our position with regard to any potential future advance deliveries: Nothing in the CRWDA or any other currently-existing contractual agreement entered into with Reclamation, on behalf of the Secretary, authorizes such advance mitigation transfers. In the absence of authorization by the Secretary, it is our view that any such future advance mitigation transfers would not be in compliance with Section 5 of the Boulder Canyon Project Act of 1928, or Article III(C) of the Consolidated Decree entered by the U.S. Supreme Court in *Arizona v. California*, 547 U.S. 150, 159-60. In this regard, Reclamation and IID will simply have to agree to disagree. Nonetheless, we appreciate the effort and initiatives that IID is taking to secure a more informed and effective mitigation strategy in the years ahead. Initial reports from the U.S. Fish and Wildlife Service

are encouraging, and we recognize all of the enormous effort by IID and other entities that is currently underway.

On behalf of Reclamation, I want to memorialize what I told you in San Diego during NWR: I appreciate IID's efforts in recent months to work in a collaborative manner with Reclamation and other lower Basin stakeholders to address our concerns over implementation of the CRWDA. Assuming the continuation of such collaborative efforts, Reclamation anticipates ongoing cooperation in working closely with IID during this critical time period so that we can effectively address the array of issues that are ongoing with respect to the CRWDA. Significantly, we believe progress has been made in recent months with the California parties to the CRWDA to identify potential approaches and actions that will enhance the successful implementation of the transfers and actions necessary for California to continue to live within its apportionment under the Law of the River. The success of the CRWDA is all the more essential given historic drought in the Colorado River Basin since 1999, and the challenges we face in the future associated with the impacts of climate change and other pressures on flows and water availability in the Basin.

Sincerely,

Michael L. Connor

Michael L. Connor
Commissioner

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