

MAY 03 2013

LC-4000
ADM-1.10

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

Dear Mr. Kelley:

I am writing to follow up on Commissioner Connor and my visit to your offices on February 20, 2013, during which we discussed a number of matters related to the ongoing implementation of the Colorado River Water Delivery Agreement (CRWDA) and the California Quantification Settlement Agreement (QSA) by the Imperial Irrigation District (IID). Commissioner Connor and I valued our visit to IID and appreciated learning more about the initiatives that IID has underway to improve its ability to reliably achieve the annual water conservation and transfer amounts set forth in the CRWDA.

During our recent meeting on February 20th, we discussed and agreed to work together this spring on a number of pending matters. In particular, we discussed working together to address an area of concern that dates back to 2010.

As you know, in addition to the 35,000 acre-foot amount identified in the CRWDA for the 2010 calendar year,¹ IID also delivered 46,546 acre-feet of Colorado River water to the Salton Sea with the stated intention of utilizing that water to meet Salton Sea future mitigation requirements for 2011 and half of 2012. While the Bureau of Reclamation recognizes the importance to IID and its surrounding communities of addressing the complex environmental problems related to the decline in the level of the Salton Sea, this unilateral action by IID is the subject of letters dated October 14, 2010, December 15, 2010, June 29, 2011, and October 11, 2011, that IID has received from the Bureau of Reclamation's Lower Colorado Regional Director and is the subject of a letter dated November 13, 2012, that IID has received from Reclamation's Commissioner. This action has also been the subject of numerous meetings held between Reclamation and IID, often including representatives of other California water agencies and, at times, the Colorado River Basin States.

¹ See CRWDA at Exhibit B, col. 7 (identifying annual quantities of water related to San Diego County Water Authority (SDCWA) Mitigation Transfer for the years 2003-2017). As referenced in the CRWDA, this amount of water "will only be from non-Colorado River sources and these amounts may be provided by exchange for Colorado River water."

Reclamation recognizes that IID is aware of the concerns expressed throughout the Colorado River water community with respect to IID's 2010 actions. Reclamation further recognizes and appreciates that IID has now expressed its willingness both to avoid similar divisive actions in the future and to work together to resolve the matter regarding the 2010 actions. In a November 7, 2012, letter to Reclamation's Commissioner, IID warranted that it did "not envision any circumstance in which advance mitigation transfers to Salton Sea (i.e., on a more rapid schedule than set forth in Exhibit B, col. 7 of the CRWDA) would be made by IID during the remaining period of such mitigation transfers (i.e., 2013-2017)". Further, IID stated that "should IID obtain [the State Water Resource Control Board's] approval of its pending petition to eliminate delivery of mitigation water to the Salton Sea, the district will, taking into account Colorado River hydrology and all other existing facts and circumstances, *take appropriate actions to reduce its future Colorado River diversions to make up for the 2010 advanced mitigation deliveries.*" (Emphasis added.) Reclamation appreciates that IID has made this commitment in order to "ensure the continued effective implementation of the QSA," as the November 7 letter states. We were particularly encouraged that in our February 20th meeting between Reclamation and IID, all participants recognized the importance of working together with respect to the development of a credible set of actions to restore the water to the system in a timely manner.

Because IID's actions in 2010 did not appear to fit into the existing legal framework applicable to deliveries of Colorado River water, the appropriate accounting for this water has been a matter of ongoing concern. Reclamation's water accounting reports for calendar years 2010 and 2011, filed with the United States Supreme Court under *Arizona v. California*, informed the court that the appropriate accounting for IID's 2010 action was under review and would be reflected in a future report.

As we discussed, given the number of outstanding and anticipated issues that IID would like to work on with Reclamation and the other CRWDA parties (as well as the larger group of Colorado River stakeholders), Reclamation believes it is an appropriate time to bring certainty to resolution of IID's 2010 delivery of Colorado River water to the Salton Sea. The water accounting report for calendar year 2012, to be issued in mid-May of 2013, will reflect that IID delivered 46,546 acre-feet of Colorado River water to the Salton Sea with the stated intention to store the water for 2011 and 2012 mitigation requirements, but did not in fact conserve an equivalent amount of water in 2011 or 2012 to support the pre-delivery. The report will reflect that IID's 2010 actions depleted the Colorado River system in the amount of 46,546 acre-feet.

The 46,546 acre-foot depletion of the Colorado River system requires prompt responsive action to address this situation. In the November 7, 2012, letter, IID premised its efforts to restore the water upon the successful completion of the petition IID has pending before the State Water Resources Control Board (SWRCB). Given the lack of certainty as to the timing and outcome of that process, we do not believe that a credible set of actions to address the 2010 delivery to the Salton Sea can rely exclusively on that process. Moreover, as the SWRCB process is not proceeding at the rapid pace once anticipated for 2013, tying prompt responsive action solely to the SWRCB process will not achieve the level of certainty required to reach a prompt and definitive resolution of this matter. Issuance of the 2012 water accounting report is imminent and the time has now come for IID to prepare a definitive, credible set of actions, irrespective of

the status of the pending SWRCB process, laying out the means by which the Colorado River system will be made whole, together with a definitive timeline to achieve this result. As we discussed in our February 20th meeting, we want to reemphasize our commitment to work with you on the development of this set of actions.

A depletion of this magnitude, without prompt responsive action, has the potential to tip the system into shortage earlier than might otherwise occur, with IID at the focal point of such a destabilizing event. This will not help us to achieve our mutual goals of prudent water management and the continued viability of the QSA and the CRWDA. We therefore request that IID present to Reclamation by June 30 of this year a credible set of actions and a definitive timeline to make up for the 2010 advanced mitigation deliveries of 46,546 acre-feet.

Reclamation appreciates IID's desire and willingness to move forward in a constructive manner on this matter as well as on a broad range of Colorado River issues. I want to assure you of our willingness and commitment to work with you and your staff on all of the challenges we face on the Colorado River. Thank you for your engagement on this important matter.

Sincerely,

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