

and in the Colorado River delta on the Mexican side and has a strong interest in restoring the Colorado River delta region.

Recommendations:

We strongly recommend that all potentially affected Indian Tribes be consulted on a government-to-government basis. For assistance you may contact James Fletcher, Region 9 EPA, State, Tribal, and Municipal Programs Office, 619-235-4763 (place-based in San Diego, CA) or Clancy Tenley, Manager of the Indian Programs Office, 415-972-3785.

The FEIS should evaluate the potential effects of all IID/SDCWA water transfer actions on Indian Tribes and their Trust Assets, including those of the Cocopah and other Colorado River Tribes. Of specific concern are potential adverse groundwater effects from the use of Colorado River water for groundwater recharge in the Coachella Valley (see Water Quality comment #2 above).

2. The Torres Martinez Indian Reservation is adjacent to and partially inundated by the Salton Sea and will, therefore, be adversely affected by identified impacts to the Salton Sea. In fact, nearly 12,000 acres of the Reservation is currently inundated by the Salton Sea. Part or all of this inundated land may be exposed under IID/SDCWA water transfer actions.

The Salton Sea was designated as an agricultural sump for drainage water in 1922. There are data suggesting that the water and accompanying sediment contain contaminants such as metals, perchlorate, pesticides and nutrients. There is concern regarding the impact of exposure of these sediments in the region, particularly in light of the stated potential need to limit public access to prevent adverse air quality impacts. We note that the Torres Martinez Desert Cahuilla Settlement Claims Act addressed damages caused by the flooding of tribal property and provided for a permanent flowage easement on tribal land at elevations lower than -220 mean sea level (msl). The Act does not specifically address potential damage to inundated land caused by deposition of potentially contaminated sediment.

Recommendation:

Additional research and data collection is needed before a determination can be made as to the use of and potential impacts from exposed Salton Sea sediment. We recommend the FEIS describe existing research on Salton Sea sediment and the efforts to obtain more data. For instance, the Regional Water Quality Control Board has recently entered into an agreement with the Torres Martinez to conduct water quality sampling and sediment analysis for various constituents; and the Salton Sea Science Subcommittee funded studies on the physical and chemical properties of the water and sediment in the Sea.

Response to Comment F6-24

(**Note:** In addition to the sediment information summary presented here, please also refer to the Master Responses on *Air Quality—Health Effects Associated with Dust Emissions* and on *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* in Section 9 of this Final EIR/EIS for more information on plans to evaluate and mitigate for potential health effects associated with exposed sediments. See also the EPA website factsheet on Selenium [EPA 2002].)

A number of historical studies have been conducted to assess the chemical quality of sediments underlying the Salton Sea. Most of the studies have been limited in spatial extent to locations of particular interest or concern and often to specific constituents of concern. However, one 1999 study involved a widespread reconnaissance investigation of Salton Sea sediments, and sediment samples were analyzed for a suite of organic and inorganic constituents.

The results of these studies represent a starting point for assessing the potential human health and/or ecological impacts of the exposure of Salton Sea sediments that would occur if the level of the Salton Sea recedes in the future. However, human and ecological risk is a combination of the presence of constituents of concern and the pathway or exposure, as discussed in the Master Response on *Air Quality—Health Effects Associated with Dust Emissions*.

Widespread Survey of Salton Sea Sediments

LFR Levine-Fricke (1999) conducted sediment samples in two phases from bottom sediments across the entire Salton Sea. A total of 57 grab samples (0 - 15 cm) and 16 core samples (0 - 180 cm depth in 30-cm increments) were collected in both phases and analyzed for a range of inorganic and organic chemicals of interest.

Inorganic chemicals were identified by the authors as being of "potential ecological concern" if concentrations were found to be in excess of a maximum baseline concentration for soils in the western U.S. The inorganic constituents found to be of potential ecological concern were:

- Cadmium
- Copper
- Molybdenum
- Nickel
- Zinc
- Selenium

Response to Comment F6-24 (continued)

The concentrations of these elements were compared to reference values for potential effects of concentrations on organisms living in submerged sediments where these concentrations exist. The primary reference values used by the authors for comparison of these sediment concentrations are National Oceanic and Atmospheric Administration (NOAA) biological effects range low (ERL) and effects range medium (ERM). ERMs are concentrations at which 50% of the studies for a particular chemical showed biological effects, and ERLs are the concentrations at which 10% of the studies showed biological effects. ERLs are generally interpreted to be "rarely" associated with adverse ecologic effects. However, no ERL or ERM values are reported for selenium or molybdenum, so alternative references were chosen for these. For selenium, the reference value selected is sediment concentrations recommended by the San Francisco Regional Water Quality Control Board as suitable for use in cover (0.7 mg/kg) and non-cover (1.4 mg/kg) sediment in created wetlands. For molybdenum, the maximum baseline value for western soils (4.0 mg/kg) was used for comparison. Reported ranges of concentrations of these inorganic elements of concern are summarized in Tables 1 and 2.

Note that these reference values, except for the western soils baseline value, are associated with potential effects of concentrations on organisms living in submerged sediments.

For potential human effects comparison, additional reference values, the EPA Preliminary Remediation Goals (PRGs), are reported in Tables 1 and 2. The PRGs combine current EPA toxicity values with "standard" exposure factors to estimate contaminant concentrations in environmental media (soil, air, water) that are considered protective of humans, including sensitive groups, over a lifetime (EPA, 2000). Exceeding a PRG suggests that further evaluation of the potential risks that may be posed by site contaminants is appropriate. The PRGs reported here represent standard exposure factors and do not necessarily reflect site-specific risk due to unique circumstances. The PRGs reported here are for residential and industrial soil settings.

The inorganic constituent identified by the LFR Levine-Fricke study as being of highest potential concern was selenium. Most selenium concentrations measured were in the range of 0 - 2 mg/kg, but 10 out of 73 samples were above 2 mg/kg, with a maximum of 8.5 mg/kg. The highest selenium concentrations were found in the northern two-thirds of the lake.

Another potential chemical of concern detected in the lakebed sediments is arsenic. The LFR Levine-Fricke study did not find elevated levels of arsenic in the Salton Sea sediments relative to the maximum baseline concentration for soils in the western U.S., and therefore, it was not characterized by the study as being of potential ecologic concern. In fact, as shown in Tables 1 and 2, the background level of arsenic in the some western U.S. soils already exceeds EPA's Preliminary Remediation Goal (PRG) for arsenic in residential soil.

Levels of a range of organic constituents were also measured as part of the study, but generally low and narrow ranges of concentrations were measured (see Table 3).

Focused Sediment Sampling in Alamo River Delta Area of Salton Sea

Setmire et al. (1993) conducted sampling of bottom sediments in a small area in the southeast portion of the Salton Sea near where the Alamo River enters the Sea. Sediment samples were collected at 16 sites. Selenium concentrations in these sediments ranged from 0.2 to 2.5 mg/kg.

Other Sediment Concentration Reports

A number of other more limited studies have collected and analyzed Salton Sea sediment samples. These sampling efforts were mostly targeted to specific locations where problems due to local conditions were expected to exist. Specific examples include offshore of the U.S. Navy's Salton Sea Test Base, where non-explosive test ordnance has been dropped into the sea, and the outlets of major tributaries such as the Alamo and New Rivers. In these areas, elevated concentrations of specific organic and inorganic constituents associated with specific activities or land uses in these areas have been found.

Response to Comment F6-24 (continued)

Tables 1 and 2

Inorganic Constituent Concentration Summary

Concentrations shown are ranges reported by LFR Levine-Fricke (1999), in a sea-wide survey of Salton Sea bottom sediments.

Salton Sea Sediments

Constituent	Reported Concentration (mg/kg or ppm)			
	High	Mean	ERL ¹	ERM ¹
Cadmium	5.8	2.35	1.2	9.6
Copper	53	13.98	34	270
Molybdenum	194	25.70		
Nickel	33	17.14	20.9	51.6
Zinc	190	39.88	150	410
Selenium	8.5	1.30		
Arsenic	7.1	3.10		
Arsenic	7.1	0.00		

Constituent	Various Reference Concentrations (mg/kg or ppm)				
	Wetlands Cover Soil Suit ²	Wetlands Noncover Soil Suit ²	Western Soils Maximum Baseline ³	EPA PRG Residential Soil ⁴	EPA PRG Industrial Soil ⁴
Cadmium				37	810
Copper			90	2,900	76,000
Molybdenum			4	390	10,000
Nickel			66	1,600	41,000
Zinc			180	23,000	100,000
Selenium	0.7	1.4	1.4	390	10,000
Arsenic				22 ^{nc}	440 ^{nc}
Arsenic				0.39 ^{ca}	2.7 ^{ca}

Notes:

¹ NOAA Biological Effects Range Low (ERL) and Biological Effects Range Medium (ERM) are guidelines used to evaluate whether submerged sediment chemical concentrations are within ranges that have been reported to be associated with biological effects. ERM - concentration at which 50% of studies for a particular chemical showed biological effects in biota living in submerged sediments. ERL - are the concentrations at which 10% of the studies showed biological effects.

² Regional Water Quality Control Board, San Francisco Region guidelines for sediment suitable for cover (low value) or noncover (higher value) sediment in wetlands creation.

³ Maximum "baseline value" for soils of the Western United States based on analysis of samples of 733 samples of undisturbed soils from throughout the Western U.S. by Shacklette and Boerngen (1984), *Element Concentrations in soils and other surficial materials of the conterminous United States: U.S. Geological Survey Professional Paper 1270*, 105 pp.

Response to Comment F6-24 (continued)

⁴ EPA Preliminary Remediation Goals (PRGs) combine current EPA toxicity values with "standard" exposure factors to estimate contaminant concentrations in environmental media (soil, air, water) that are considered protective of humans, including sensitive groups, over a lifetime. Exceeding a PRG suggests that further evaluation of the potential risks that may be posed by site contaminants is appropriate. The PRGs reported here represent standard exposure factors and do not necessarily reflect site-specific risk due to unique circumstances.

^{nc} Non-cancer risk PRG equate to a hazard quotient of 1 for noncarcinogenic concerns.

^{ca} Cancer risk PRG equates to a one-in-a-million cancer risk. According to the EPA PRG documentation, naturally occurring arsenic in soils are frequently higher than the cancer risk-based PRG. Because of this EPA Region 9 has at times used the non-cancer PRG to evaluate sites, recognizing that this value tends to be above background levels yet still falls within the range of soil concentrations that equates to EPA's "acceptable" cancer risk of 10E⁻⁶ to 10E⁻⁴.

Table 3. Organic Constituent Concentration Summary

Concentrations shown are ranges reported by LFR Levine-Fricke (1999), in a sea-wide survey of Salton Sea bottom sediments.

Detected Constituent	Reference Concentrations				
	Maximum Detection Limit (µg/kg dry weight)*	Number of Sites with Detects (from 73 sites)	Highest Reported Concentration (µg/kg dry weight)	EPA PRG Residential Soil	EPA PRG Industrial Soil
1,2,4 Trimethylbenzene	77	1	700	54,000	170,000
1,3,5-Trimethylbenzene	77	2	230	21,000	70,000
2-Butanone	77	51	536	NA	NA
Acetone	95	6	1,526	1,600,000	6,200,000
Benzene	77	1	43	650	1,500
Carbon Disulfide	16	69	5,000	360,000	720,000
n-Propylbenzene	77	1	77	140,000	240,000
Naphthalene	77	1	110	56,000	190,000
o-Xylene	77	1	45	210,000	210,000

Note:

* Detection limits vary according to test methods and presence of interference. Retesting with lower detection limits was conducted for some samples.

3. Rather than providing a summary of the amounts, priority dates, and states where tribal water rights are perfected, the DEIS refers the reader to the Department of Interior's Implementation Agreement DEIS. While we support the incorporation of information by reference, we believe a short summary of the cited information would better serve the public, decision makers, and the full disclosure requirements of the National Environmental Policy Act.

Recommendation:

The FEIS should provide a short summary of the amounts, priority dates, and location of tribal present perfected water rights. If appropriate, this information could be incorporated into the FEIS in a table format.

Biological Resources and the Habitat Conservation Plan (HCP)

1. Implementation of the IID/SDCWA water transfer could result in significant adverse effects to biological resources due to construction within the IID service area, reduction in flows of the Lower Colorado River, reduction in Salton Sea surface elevations, and increased salinity in the Salton Sea. To address adverse effects to the Salton Sea, two mitigation approaches are proposed: Approach 1) fish hatchery and habitat replacement, and Approach 2) use of water conserved through additional water conservation measures and/or fallowing to replace water so there would be no change in inflow to the Salton Sea.

EPA supports all efforts to avoid, minimize, and mitigate potential adverse effects of the IID/SDCWA water transfer. However, we question whether proposed mitigation, especially mitigation proposed for the Salton Sea, would be able to reduce adverse impacts below the level of significance. We note that the HCP presents many general concepts, leaving key ecological and logistical issues unaddressed. Unresolved issues related to Approach 1) include: the water source(s) for the proposed fish hatchery, fish ponds, and replacement water; temperature requirements of tilapia; aquaculture wastewater management; adaptability of hatchery fish to conditions within the Sea; and how to adapt project operations and management to changing concentrations of water contaminants in the Salton Sea. EPA is concerned that a commitment to such a conceptual and unproven mitigation approach might put biological resources at severe risk, especially in light of the predicted imminent collapse of the Salton Sea fishery and concomitant reduction of a food source for fish-eating birds.

Recommendations:

We urge Reclamation, IID, CVWD, MWD, US Fish and Wildlife Service (USFWS), and California Fish and Game (CFG) to continue to refine the HCP. If feasible, a more developed HCP should be included in the FEIS. Unresolved issues such as the water source(s) for the proposed fish hatchery, fish ponds, and replacement water; temperature requirements of tilapia; wastewater treatment; adaptability of hatchery fish to conditions within the Sea; and how to adapt projects to changing concentrations of water contaminants in the Salton Sea

Response to Comment F6-25

The Draft EIR/EIS has been revised to include information for those tribes whose rights have been perfected. These changes are indicated in Section 3.9 of this Final EIR/EIS.

Response to Comment F6-26

Since the development of the approaches described in the HCP and Draft EIR/EIS, additional discussions with USFWS and CDFG have led to modifications, which now provide greater detail and clarity on the approaches to mitigating Salton Sea impacts. See the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 and Appendix C, Habitat Conservation Plan, of this Final EIR/EIS.

should be fully addressed. The proposed water sources are of specific interest, especially given the scarcity of such sources and the proposed commitment to provide biological mitigation water which is less than 2 µg/L selenium.

Other potential adverse effects, such as bioaccumulation of selenium, are not adequately addressed in the HCP. The HCP should provide a comprehensive mitigation strategy for biological resources, addressing all potential adverse impacts to the Salton Sea and other affected fish and wildlife species and habitat.

EPA urges use of all possible tools, including voluntary fallowing, to avoid, minimize, and mitigate for potential impacts to biological resources. We acknowledge the second mitigation approach of utilizing conserved water to help address adverse biological resource impacts of the IID/SDCWA water transfer. We note that fallowing is a very controversial option and has been rejected by many of the local communities. We recommend the FEIS provide a more detailed evaluation of the feasibility of using conserved water to avoid and minimize adverse biological resources effects on the Salton Sea.

F6-26

2. The HCP proposes to create at least 190 to 652 acres of managed marsh habitat as mitigation for potential impacts to biological resources from implementation of water conservation measures or regular agricultural operation and maintenance activities (pg. 2-46). The description of potential water source(s), required water quantities, and the potential for selenium accumulation and bioaccumulation is minimal.

Recommendation:

EPA believes that much more detailed information regarding the water requirements, implementation, and operation of the HCP is required in order to determine the feasibility of proposed HCP measures. Specifically, the FEIS should include additional information on the marsh creation proposal. This information should include a description of potential water source(s) and the required water quantities. We also recommend a full evaluation of the potential for selenium accumulation in the proposed marsh and the risk of selenium bioaccumulation.

F6-27

3. The DEIS appears to discount the potential danger of reduced drain flows on the special-status desert pupfish because turbidity would remain high, thus, providing protection from predators. We note that a TMDL will be developed to reduce sediment, therefore, reducing turbidity in the IID drains.

Recommendation:

We recommend Reclamation reevaluate the assumption that turbidity in the IID drains would provide sufficient protection for the desert pupfish. The FEIS should

F6-28

Response to Comment F6-27

Chapter 5 of the HCP has been revised to include a maximum commitment of 7,824 AFY of Colorado River water that would be used to support the managed marsh habitat. This maximum commitment assumes that 652 acres of managed marsh would be created and would require 12 acre-feet per acre per year. This amount of water is approximately twice the amount of water lost to evapotranspiration. In managed marsh units for Yuma clapper rails, the Sonny Bono Salton Sea National Wildlife Refuge applies about 9 acre-feet/acre per year. This amount of water is adequate to manage these units as flow through systems, so that selenium does not become concentrated. The HCP specifies the quality of the water with respect to selenium (the primary constituent of concern) that IID must use to support the managed marsh. The precise source of the water is not specified in order to provide the greatest flexibility over the 75-year permit term. IID has several feasible means for providing water to the managed marsh, including capturing operational spill, fallowing land to generate water, locating managed marshes to use water in specific drains that are of sufficient quality to meet the selenium requirements, and blending drain and canal water. Thus, there are feasible and identifiable sources of water to support the managed marsh. The specific location, design and source of water for the managed marsh will be determined in coordination with the HCP Implementation Team and require approval by the USFWS and CDFG.

Response to Comment F6-28

The description of predation impacts on desert pupfish under Impact BR-21 states: "Reductions in flows (and resulting decreases in water depths) could make fish residing in the drains more vulnerable to predation by fish-eating birds. The overall impact of this potential increase in predation, however, is moderated by the generally high turbidity of drainwater and thus the low visibility of fish in the drains." The potential for increased predation is identified as one of the possible effects (on all fish species) of reduced flows in the drains, along with the expectation that this effect would be moderated by the generally high turbidity in the drains. This applies to all fish in the drains and to the drain system as a whole. However, water depths in the pupfish drains is not expected to decline significantly as a result of the Project. Pupfish occupy the terminal portions of drains that discharge directly to the Sea. As such, water surface elevation (and depth) are controlled by Sea

Response to Comment F6-28 (continued)

elevation and not flow. Therefore, exposure of pupfish would not be expected to increase as a result of the Project. Specific impacts to desert pupfish are described under Impact BR-24, where predation, as well as competition and interference potentially have adverse effects on this special-status species. As noted in Impact BR-24, implementation of the HCP component of the Proposed Project would reduce this potential impact to less than significant (see Impact BR - 38). Further, if and when a TMDL is developed for sediment, federal and state agencies implementing the TMDL would need to consider its effects on desert pupfish, a state and federal listed species.

F6-28

consider and evaluate the potential effects to desert pupfish populations if increased predation does occur.

Response to Comment F6-29

Refer to the Master Response on *Other—Relationship Between the Proposed Project and the Salton Sea Restoration Project* in Section 9 of this Final EIR/EIS.

F6-29

4. The DEIS appears to downplay the importance of increasing salinity levels in the Salton Sea. Although salinity levels are already increasing in the Sea, the IID/SDCWA water transfer would accelerate the rate of this increase. As described in the DEIS, the Salton Sea Restoration Program is attempting to develop measures to control the current salinity levels and to eliminate any new increase in salinity. While control measures may be feasible, given current salinity levels and projected salinity increases, it is very unlikely these measures would be effective in addressing a more rapid increase in salinity.

Response to Comment F6-30

The statement that the biological conservation measures would not be implemented is based on the premise that the Interim Surplus Guidelines would be suspended under the No Action scenario. Thus, none of the actions described in Reclamation's August 2000 BA would be undertaken, and the corresponding BO would be set aside. The commenter is correct that if the ISG remained in effect, but the water transfers were abandoned, the conservation measures related to the ISG would need to be implemented. However, the ISG under its terms would not continue if the water transfers are abandoned.

Recommendation:

The FEIS should evaluate the potential effects of the proposed IID/SDCWA water transfer on the feasibility and costs of implementing the Salton Sea Restoration Program salinity control measures.

F6-30

5. The DEIS states that biological conservation measures for the Lower Colorado River would not be implemented under the No Action condition (pg. 2-54). EPA disagrees with this statement, given the fact the biological conservation measures are nondiscretionary reasonable and prudent measures identified in the USFWS Biological Opinion dated January 12, 2001 for the Interim Surplus Criteria, Secretarial Implementation Agreements, and Conservation Measures on the Lower Colorado River.

Response to Comment F6-31

Please refer to the Master Responses on *Hydrology—Development of the Baseline and Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS. The project Baseline is a reasonable to identifying how existing conditions at the Salton Sea can be expected to evolve, without the Project, over the next 75 years. This projected Baseline allows the effects of existing conditions (which includes clear trends regarding Sea elevation and salinity) to be differentiated from Project-related effects. We do not agree that the Baseline results in an underestimation of Project-related impacts of a minimization of mitigation measures. With implementation of the Salton Sea Habitat Conservation Strategy, the elevation of the Salton Sea will be maintained at Baseline levels until at least the year 2030.

Recommendation:

We recommend Reclamation reevaluate the assumption that the biological conservation measures for the Lower Colorado River would not be implemented under the No Action condition. Since the Interim Surplus Criteria are already in place, the Biological Opinion issued, and Section 7 consultation complete, we strongly recommend that implementation of the biological conservation measures proceed as quickly as feasible. If implementation of these nondiscretionary biological measures is suspended, consultation with USFWS should be reinitiated.

Environmental Baseline for the Salton Sea

F6-31

We question the appropriateness of the environmental baseline used in the Salton Sea effects analysis. Only IID inflow into the Salton Sea seems to have been used for the environmental baseline versus total inflow into the Sea which would include inflow from CVWD, local seeps, and intermittent creeks. There is a concern that the baseline used may minimize the potential adverse effects and necessary mitigation attributed to the IID/SDCWA water transfer.

Based upon the analysis provided for the projected Baseline, we believe it is not necessary, and potentially confusing, to create two baseline scenarios. We note that the SSAM did consider all inflow sources in describing existing and projected Baseline conditions, based upon input from IID and CVWD.

Response to Comment F6-31 (continued)

With regard to the description of Project effects, the Draft EIR/EIS took a conservative approach by assuming that the total amount of water conserved by IID for transfer (300 KAFY) would be transferred out of the Salton Sea Basin, to ensure that Project-related impacts to the Sea were not underestimated. We have prepared a modeled analysis of CVWD's receipt of additional water in the future pursuant to the QSA. Please refer to the Master Response on *Hydrology—Water Transfers to CVWD (QSA Implementation Scenario)* in Section 9 of this Final EIR/EIS. We assume that this scenario is similar to the commenter's request for analysis of a "likely use" scenario.

Recommendations:

Since the environmental baseline is used to determine the magnitude of potential impacts of the proposed action, we believe it is crucial that the rationale for establishing an appropriate baseline be fully and clearly addressed in the FEIS.

To minimize confusion, Reclamation may wish to consider the use of two baselines: existing conditions and the project future condition. The addition of an existing condition baseline that includes all present inflows would provide a more complete set of conditions against which to predict potential project effects.

We also recommend providing a range for the model predictions of effects, to include a "likely-case" scenario and "worst-case" scenario, rather than using only a worst-case scenario evaluation.

F6-31

Environmental Justice

The DEIS evaluates only the potential environmental justice impacts of narrowly defined Federal actions even though other proposed actions (water conservation measures, use of Colorado River water in Coachella Valley) could have a disproportionate effect on agricultural workers, Indian tribes, and low income or minority populations.

Recommendation:

We believe an environmental justice evaluation including all proposed actions, not just Federal actions, is very important given the presence of low income populations or minority communities which could be disproportionately and adversely affected by proposed implementation of the IID/SDCWA water transfer. We note that California enacted Environmental Justice legislation in October 12, 2001 and may soon require consideration of environmental justice effects for non-Federal actions. As a guide, we have enclosed the Federal Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."

F6-32

General Comments

1. The DEIS clearly states that following (Alternative 4) and provision of replacement water for the Salton Sea (HCP Approach 2) would avoid or reduce significant and unavoidable impacts to water quality, air quality, biological resources, and recreation (pgs. 3.1-113, 4-13, 5-48). As stated earlier, EPA advocates use of all available tools to address potential impacts and to balance water supply and demand.

F6-33

Response to Comment F6-32

In response to comments, the text of Section 3.15 has been revised. The changes are indicated in Section 3.15 of this Final EIR/EIS.

Response to Comment F6-33

Chapter 2 in the Draft EIR/EIS describes the IID Board's policies regarding following. It also describes the sections of the Water Code that are applicable to the relationship between water conservation and water rights.

For additional information on other applicable laws and policies, please refer to the response given for Comment L1-49 as follows:

The Lead Agencies acknowledge that elements of the County's General Plan include policies, goals, and objectives relating to, among other things, use of agricultural lands, water use and conservation, conservation of biological resources, and open space objectives. The comments from the County indicate that its primary concerns are the impact of the Proposed Project on agricultural production and retention of agricultural lands and its objection to the following of agricultural lands.

The Draft EIR/EIS explains that, as originally envisioned, the Water Conservation and Transfer Project did not anticipate the use of following as a conservation measure. Section 2.2.3.4 of the Draft EIR/EIS describes certain restrictions on following contained in the IID/SDCWA Transfer Agreement and IID Board policies stating that the Board is not in favor of the use of following in connection with the Proposed Project. However, as a result of the environmental review process and consultation with federal and state regulatory and resource agencies, following has been suggested as a means of reducing the impacts of the water conservation program on certain resources, including the Salton Sea and air quality. To comply with the requirements of CEQA, the EIR/EIS must evaluate conservation methods which have the potential to reduce the significant effects of the Proposed Project, whether these are considered mitigation measures, project alternatives, or changes in the Project. The EIR/EIS recognizes that, if long-term or permanent following results in the conversion of agricultural lands to non-agricultural use, the impact to agricultural resources is significant.

Response to Comment F6-33 (continued)

As suggested by the County, this response to its request for an analysis of consistency with the General Plan focuses on the following elements of the General Plan: Land Use, Agricultural, Water, and Conservation/Open Space. The General Plan states that the purpose of these elements is to identify general goals, policies, and standards, which serve as primary policy statements for implementing development policies and land uses; they do not typically force specific actions. For example, the Land Use Element [page 35] states that the goals and objectives are "policy statements representing ideals which have been determined by the citizens as being desirable and deserving of community time and resources to achieve," which should be used as guidelines but not doctrines [page 35].

The Water Element [page 25] states:

"The goals and objectives are not to be inclusive and are general in nature. They are not to be considered as a means to regulate a specific area. The main intent is for them to be implemented only to the extent that such implementation is achieved by reasonable regulations or rights therein. The goals and objectives may change at any time to accommodate appropriate growth within the county."

The General Plan states numerous goals and policies which, when applied to the features of the Project, are mutually inconsistent. For example, the General Plan includes policies:

- To preserve commercial agriculture as a prime economic force.
- To encourage the continuation of irrigation agriculture on Important Farmland.
- To allow conversion of agricultural land to non-agricultural uses only where a clear and immediate need can be demonstrated.

The Agricultural Element [pages 5-7] recognizes the extensive acreage within Imperial County that is suitable for agricultural production, describes "the long-term commitment by the County to the full promotion, management, use, and development and protection of agricultural production," and recognizes agriculture as the "single most important economic activity of Imperial County."

Long-term or permanent following by itself would not advance the objectives described above. As discussed above, however, the impetus for considering following as a conservation measure is to reduce the environmental impacts of other conservation measures. This purpose is consistent with other policies and objectives set forth in the General Plan which encourage conservation and protection of environmental resources, such as:

- To identify and preserve the County's air and water quality.
- To preserve as open space those lands containing important natural resources, sensitive vegetation, and wildlife habitats.
- To establish policies and programs for maintaining salinity levels in the Salton Sea which enable it to remain a viable fish and wildlife habitat.
- To encourage farmers to use irrigation methods that conserve water.
- To improve the quality of irrigation water runoff to minimize impacts to downstream water bodies, wetland habitats, and the overall environment.
- To encourage water conservation by promoting the development of structural and non-structural measures, including improved on-farm irrigation water management systems.
- To use open space easements to protect natural resources and the public health and safety, including areas required for the preservation of a habitat for fish and wildlife species, areas required for the protection of water quality, and areas required for the protection and enhancement of air quality.
- To cooperate and coordinate the use of water resources to protect and enhance valuable wildlife communities and habitats of the region.

The Water Element recognizes the difficulties involved in balancing agricultural production and environmental protection. This element [pages 27-28] acknowledges:

- Environmental concerns regarding the Salton Sea, particularly increased salinity and selenium levels, stating: "The solution to increased salinity and selenium levels is not simply to reduce irrigation water, since this would actually be accompanied by a rise in salinity and selenium concentrations. Nevertheless, it behooves the agricultural community to remain sensitive to and cooperate with environmental efforts to stabilize salinity and selenium of the Salton Sea."
- That more federal and state regulation of agriculture is likely in the future and that the agricultural community needs to be concerned with environmental issues, concluding: "The agricultural community needs to anticipate and take the lead on environmental protections before governments do it for them."

Response to Comment F6-33 (continued)

The Water Element recognizes that water is a key resource critical to the preservation of agricultural production, but it also specifically acknowledges growing concerns about water resources and environmental problems and that water in California is becoming a scarce resource. It describes the extensive water conservation efforts initiated by IID, including the 1988 IID/MWD Agreement, which funded specific conservation facilities. It recognizes "the possible reduction of available Colorado River water caused by increased demand and adverse climactic conditions, as well as the balancing of urban and agricultural needs with those of plants and wildlife." Thus, the Project advances certain General Plan goals and objectives and does not advance others. The consistency or inconsistency of the Project with the General Plan is not clear without some guidance on the relative importance of various goals and objectives, which the General Plan does not provide. The Project raises difficult issues regarding how a limited supply of Colorado River water should be applied among competing beneficial uses. The IID Board must consider the assessment contained in the Final EIR/EIS and determine, in compliance with CEQA, whether the Project should proceed and how the Project objectives and environmental impacts should be appropriately balanced. Through the County's comment letter and this response, the Final EIR/EIS will identify the County's issues and concerns, and the IID Board must consider this information in deciding what action to take on the Project.

Recommendations:

We urge Reclamation, IID, CVWD, and MWD to consider modifying agreements and resolutions, where appropriate, to allow for voluntary fallowing.

We also note that Section 3.4 on Land Use states there are no conflicts between land use plans and fallowing because fallowing would not change the land use zoning from agriculture. However, fallowing has been specifically rejected by local communities via policy statements and ordinances. We recommend the FEIS describe the existing policies, agreements, and ordinances that either prohibit or provide for fallowing.

F6-33

2. A potential project scenario includes implementation of the water transfer as proposed in the unmodified 1998 IID/SDCWA Water Transfer Agreement (pg. 1-2). The Department of Interior's Implementation Agreement DEIS only evaluated the potential effects of implementing the IID/SDCWA water transfer as agreed to under the QSA. If the QSA scenario for the IID/SDCWA water transfer is not selected, than a new Implementation Agreement would be required.

F6-34

Recommendation:

To help avoid spending additional time and resources, we recommend the FEISs for the IA and IID/SDCWA water transfer describe the options and process for addressing potential effects of alternative Department of Interior implementation agreements for other water transfer alternatives which could be selected.

3. Given the increasing scarcity and limitations of existing water supply sources, EPA advocates implementation of planned growth principles which are town-centered; transit and pedestrian oriented; have a greater mix of housing, commercial and retail uses; and maximizes water use efficiencies. We urge aggressive implementation of water use efficiency measures in order to achieve and maintain a sustainable balance between water supply and demand.

F6-35

Recommendation:

We recommend the FEIS provide a detailed description of water use efficiency and water conservation efforts being taken by SDCWA and MWD. We encourage consideration of water use efficiency targets as one benchmark for obtaining additional increments of transfer water.

Response to Comment F6-34

It is premature to consider the specific provisions of an IA that would implement the IID Water Conservation and Transfer Agreement in the absence of the QSA. The QSA is the only vehicle that has the agreement of the parties critical to a successful transfer, and speculation about other possible scenarios is premature.

Response to Comment F6-35

Please refer to the Master Response on *Other—Desalination in SDWCA Service Area and Comments Calling for Increased Conservation* in Section 9 of this Final EIR/EIS.

SUMMARY OF EPA RATING DEFINITIONS

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This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

Lower Colorado River Water Supply Projects and the Salton Sea
Potentially Affected Tribes

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A total of thirty-five indian tribes could be affected by proposed Colorado River actions and related actions: five tribes on the lower Colorado River, six tribes in the Salton Sea watershed, six tribes that use or may be affected by the Central Arizona Project, and 18 tribes within San Diego County.

Lower Colorado River

Chemehuevi Indian Tribe
Cocopah Indian Tribe
Colorado River Indian Tribes
Fort Mojave Indian Tribe
Fort Yuma Quechan Indian Tribe

Salton Sea

Cabezon Band of Desert Cahuilla
The Five Tribes of the Morongo Consortium of Coachella Valley Tribes:
Torres-Martinez
The Morongo Band of Mission Indians
The Agua Caliente Band of Desert Cahuilla
Twenty Nine Palms Band of Mission Indians
Augustine Band of Desert Cahuilla

Central Arizona Project

Salt River Indian Community
Fort McDowell
AK Chin
Tohono O'Odham
Gila River Indian Community
Pascua Yaqui

San Diego County

Campo	Pauma
La Posta	Pala
Cuyapaipe	Manzanita
Viejas	Inaja
Barona - Barron Long	Capitan Grande
Sycuan	Rincon
Jamul	San Pasqual
Meas Grande	La Jolla
Santa Ysabel	Los Coyotes