

SPECIAL BOARD MEETING

**IMPERIAL IRRIGATION DISTRICT
1285 BROADWAY STREET, EL CENTRO, CA
MONDAY, DECEMBER 9, 2002**

Directors present: Andy Horne, Bruce Kuhn, Stella Mendoza, and Rudy Maldonado
Directors absent: Lloyd Allen

OPEN SESSION – 2:00 p.m.

PUBLIC COMMENTS – (Items not listed on agenda)

Larry Gilbert, Imperial, stated that there are only one or two things in the water transfer proposal that are acceptable. The financial risk is a concern. Farmers can do the conservation in a way that would minimize the risks of the contract terminating before we anticipated it would.

CLOSED SESSION – 2:20 p.m.

Review the performance of the General Manager and confer with negotiators on possible transfer of conserved water.

Director Allen arrived at 3:30 p.m.

RECONVENE OPEN SESSION – 6:00 p.m.

Jo Shields led us in the Pledge of Allegiance to the Flag.

PUBLIC COMMENTS

Chief Legal Counsel John Carter told the Board that the agenda before them is asking for the Board to take action regarding the Quantification Settlement Agreement and related documents and the fourth IID/San Diego agreement. The actions requested are set forth in the General Manager's board agenda memo.

President Mendoza asked for input from the public in attendance.

Steve Bilson, chairman of ReWater Systems, Inc. in Chula Vista, submitted a letter for the record dated December 9, 2002 where he mentions that in his response to the EIR/EIS for the water transfer he accuses Metropolitan and San Diego of various violations re beneficial use requirements. He hopes that the Board will make a better deal on another day!

Eric Lee, Holtville, stated that whatever decision the Board makes will affect his family. "The Board should make the best decision for all the families in Imperial Valley that you serve. Do the best you can for us."

Ray Saucedo stated that Coachella Valley Water District has 15,000 acre-feet to replenish its groundwater basin. He added that we should be highly compensated for the water transferred.

Larry Porter, activist from Newport Beach, urged the Board to stop the transfer to San Diego; do not transfer any of "your" lifeblood out of the Imperial Valley; believes the Valley is entitled to it and should keep it here. San Diego should cut out the chicanery, and start some form of conservation instead of trying to take the water from IID.

Gordon Jongeward on behalf of the Brawley Economic Development Corp. and the Brawley Main Street Association expressed his concerns about the water transfer and indicated their opposition to the transfer. However, he understands the veiled threats of sanctions against Imperial Valley if the transfer is voted down.

If sanctions are imposed, it will hurt some of the projects such as the San Diego State University project, the Brawley Bypass, Cal-Energy, the regional air cargo, and the farmers who will be first on the list. Other concerns include environmental mitigation for Salton Sea. Never, never give up!

Gustavo Aguirre with the United Farm Workers read into the record a letter dated December 9, 2002 urging the Board to vote in favor of the water transfer only if the agreement included \$70 million of transition assistance for the Imperial Valley communities.

Benny Andrés, Brawley, stated that the Board has a constituency that they have to represent. Some members ran on the platform of no following. He recently heard that Congress people Bob Filner and Mary Bono would make available \$200 million for Salton Sea; we should wait and see if this is forthcoming. IID should have a three-to-five year plan that will provide breathing room and meet all the primary conditions that were presented to Coachella, Metropolitan and San Diego.

Ed Snively, El Centro, asked if the fourth amendment would be sent to the other agencies to ratify? He was told that the fourth amendment is only one document of many and ties in to the Quantification Settlement Agreement; one agreement cannot stand alone without the others.

Antonio Ramos, Calexico, brought a plastic milk jug with little water in it to emphasize his opposition to the water transfer. If it goes through we will have no water and the Valley will become another Owens Valley – dead. He warned the Directors that whoever votes for the water transfer will not be re-elected at the next election. Nobody has the right to sell the water. Don't be a scrooge and ruin Christmas for everybody.

Norm Niver, Salton Sea, remembered Storm Kathleen in 1976 and how areas in Salton Sea got flooded and there were many lawsuits against IID because of it, and others going to the State Water Resources Control Board on the reasonable and beneficial use of water.

Mike Cox, president of the Farm Bureau, attended some of the negotiation meetings in Los Angeles in October and is well aware of the pros and cons to the water conservation program. He stated that the Farm Bureau had not reached consensus for or against the transfer. He added that some of the bad points about the proposal are the 75 year-term; the QSA contains several issues that are disagreeable to the farmers; the 800,000 acre-feet to Coachella and the price for this water; imposition of the 3.1 million acre-feet cap for IID; no upfront money; environmental indemnification (the \$30 million does address the issue); the extension of the 1988 MWD agreement was not fully understood; the \$20 million for southend impacts will fall on the participants; the delivery schedule is not enough to fund future conservation projects; the need for mitigation money for Salton Sea; no assurances from the Bureau of Reclamation to send water to Salton Sea. He urged the Board not to approve this water transfer. Farmers have been asking for a "Plan B" with a shorter term. He also asked the Board not to bow to pressure from Coachella for more water.

Malissa Hathaway McKeith an attorney from Los Angeles, on behalf of the Citizens United for Resources and Environment (CURE) spoke against the water transfer in its current configuration and urged the Board to table action on the issue since they have not had sufficient time to review the documents. She doesn't believe that either President Bush or Governor Davis will take away the IID's water rights. She offered to be a mediator to secure \$70 million for the people in the community.

Caroline Jaime, Imperial, believes that San Diego should put conservation methods into practice. If the transfer goes through, what happens in 20 years when the Valley is changed? Who will compensate the public for their investments? Will the value of property decline?

Shirley Palmer, Salton City and Desert Shores, stated that most of the residents in her area are senior citizens on a fixed income and voting for the transfer would affect those people. The only ones that will benefit are those receiving the water. Vote no on the transfer!

Joe Maruca, Imperial County Supervisor, stated that unless three major issues are resolved, the water transfer should be shelved or voted down: (1) Salton Sea; (2) reasonable and beneficial use; and (3) a promise to not come back for more water. He mentioned the fate of the Owens Valley and that he is in favor of going to court to fight for our water.

Wally Leimgruber, another Imperial County Supervisor, stated that any reduction in water to the Salton Sea would result in a receding shoreline, and the EIR/EIS did not address the significant impacts that would occur by such a reduction. There's also a health issue from the sediment exposed and all the elements at the bottom of the Sea.

Dilda McFadden, El Centro, mentioned that not only are the IID's water rights being threatened by outsiders, but also from people within our own community who want to change the makeup of the board and take control. Who would benefit if the IID were dismantled? These same people want to go around IID to sell their water. Can IID afford to take on the state and federal governments? He encouraged the Board to vote for the water transfer which would bring in new industries and jobs.

George Ray asked the Board not to approve the water transfer. He is concerned about the division between farmers, landowners, and the community at large. He would like the Board to start new negotiations and keep the farmers informed.

Don Cox, Brawley, stated that the agreement is completely different as that proposed at the beginning of the negotiations. It does not make sense to transfer 300,000 acre-feet by fallowing or through some other means when we have to deal with the Salton Sea and other problems. We have no idea what the third-party impacts will be or the cost to stay within the 3.1 million acre-foot cap.

Laura Harnish from CH2MHill reviewed the environmental documents pertaining to the water transfer.

(The following were entered into the record requesting a no vote: Letter dated December 9, 2002 from the Imperial County Board of Supervisors, and a fax dated December 9, 2002 from Holly Duncan, a concerned citizen.)

ACTION

No. 1
QSA and Related
Documents re
IID/SDCWA Water
Transfer Program

Regarding the Quantification Settlement Agreement and related documents covering the water transfer between Imperial Irrigation District and the San Diego County Water Authority, the IID Board was asked to take the following actions. However, Chief Legal Counsel John Carter advised the Board that if the first item under the environmental documents were not approved, then the entire set of documents listed below would be automatically rejected and the water transfer could not go forward.

Environmental Documents

1. Approval of the Quantification Settlement Agreement Program Environmental Impact Report Addendum and adoption of the California Environmental Quality Act Findings, the Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program for the QSA PEIR.
2. Approval of the Final EIR, as modified and supplemented by the Addendum thereto, as sufficient to assess the revised IID Water Conservation and Transfer Project.
3. Resolution: Adoption of the CEQA Findings, the statement of Overriding Considerations, and the MMRP for the IID Water Conservation and Transfer Project.

Quantification Settlement Agreement

- 4a Adoption of Resolution approving the QSA project and authorizing the President or Vice President and the Secretary to sign the Quantification Settlement Agreement, the IID/MWD Acquisition Agreement, the IID/CVWD Acquisition Agreement, the Environmental Cost Sharing Agreement, the All American Canal Allocation Agreement, and all Related Agreements, upon determination by the General Manager and the Chief Counsel that said Agreements and Exhibits thereto are substantially in the same form and substance as those released for public review on December 2, 3, 5 and 6, 2002, and include the further revisions authorized at the IID Board workshop on December 5, 2002.
- 4b Approve the Notice of Determination for the Quantification Settlement Agreement and authorize the General Manager to file the Notice of Determination.

IID Water Conservation and Transfer Project

- 5a Adoption of Resolution approving the IID Water Conservation and Transfer Project and authorizing the President or Vice President and the Secretary to sign the Fourth Amendment to Agreement Between Imperial Irrigation District and San Diego County Water Authority for Transfer of Conserved Water, Exhibits thereto, and Related Agreements and documents, upon determination by the General Manager and the Chief Counsel that said Fourth Amendment to Agreement and Exhibits thereto are substantially in the same form and substance as those released for public review on December 2, 3, 5 and 6, 2002, and include the further revisions authorized at the IID Board workshop on December 5, 2002.
- 5b Approve the Notice of Determination for the IID Water Conservation and Transfer Project and authorize the General Manager to file the Notice of Determination.

Moved by Director Allen, seconded by Director Maldonado, that the Board approve the Quantification Settlement Agreement Program Environmental Impact Report Addendum, adopt the California Environmental Quality Act Findings, the Statement of Overriding Considerations, and the MMRP for the QSA PEIR.

Roll call: Directors Allen and Maldonado voted yes.
Directors Horne, Kuhn, and Mendoza voted no.
Motion did not carry.

The following discussion took place after the motion.

Director Allen stated that the first transfer program with San Diego started off as a conservation program – get the IID system in better condition, make improvements, and create new jobs. The Salton Sea issue changed the entire picture of the efficiency water transfer proposal. He added that the agreement with Metropolitan Water District was not such a good deal. Farmers have paid over \$23 million for the environmental costs and legal suits. He doesn't see any other citizen volunteering to pay the costs associated with the water transfer; the farmers are paying the bills! Director Allen remarked that he does not want to give away water.

Director Horne indicated that this was the toughest decision he has made since he has been on the board. He was part of the first negotiating team in 1998 and has been in the rooms when most of the threats were made against IID. He supported the water transfer that was based on efficiency conservation. However, he would be willing to make a concession on a short-term following program. He is very

concerned about the restoration project for the Salton Sea and how will it be implemented; what happens at the end of the first 15 years? We don't have most of the answers. The whole thing started as a win-win situation, but has ended up with the situation of IID being threatened to induce the Board to sign the agreement. He resents the threat that IID will be abolished and funding money withdrawn. He would be supportive of an interim water transfer for California, and of a plan where all the community would be involved in sharing the cost of defending our water rights.

Director Maldonado supports managing proactively 3.1 million acre-feet rather than manage reactively and risk the future with a reduced amount of 2.6 million acre-feet. There are many risks and we're taking some chances; however, the board has voted, let's move on. Whatever we can do, let's start now.

Director Kuhn stated that after checking the issues and studying the facts, he realized that he could not support the transfer. It was not in our best interests. There were letters and lobbying efforts from the Governor's office and state legislators urging for a positive vote. This was not an easy decision and he is full aware that there will be serious ramifications if the vote is no. State and federal people will be at our throats.

President Mendoza thanked her fellow board members for their decision. She indicated that she always knew where she stood for several reasons: the term is too long; too many unknown issues; environmental mitigation costs; state and federal government would not come up with a solution to the Salton Sea after the 15-year following period; reasonable and beneficial use being recognized by the federal government. She would support a shorter-term transfer. We are going to transfer some water; we cannot avoid it. But it will have to be a transfer on our terms even though state and federal government have threatened us. It is up to us as a community to come together to fight for our water rights. This has been a tough road for the entire Board.

After the failed motion, the following motion was made:

Moved by Director Kuhn, seconded by Director Horne, that the Board direct staff to use the following nine points to develop a plan for a temporary drought relief transfer of three to five years that would allow for the transfer of 100,000 acre-feet of water a year to San Diego or to another willing buyer to help with the drought situation in California:

- (1) The term would be from 3-5 years.
- (2) IID would lease enough ground, beginning in 2003 to generate 100,000 acre-feet, and perhaps increasing to 200,000 acre-feet, depending on hydrology, in subsequent years. Transfers could be ceased or suspended during wet years. Leases should be solicited on a voluntary basis, with water history being taken into account. They should be for a maximum of two years.
- (3) IID would cap itself at 3.1 million acre-feet during the program. Enough additional ground would be leased to ensure this, or an alternative developed to allocate water to all users.
- (4) Revenues from the transfer in excess of lease costs would be used to immediately lower water rates, retire debt, and mitigate socio-economic impacts. Some fixed percentage of revenues should be earmarked for each of these categories.
- (5) Environmental costs would be minimal, but should be borne by the transferee. Reduced inflows to the Sea should be small, but no make-up water would be provided by IID without compensation.
- (6) Coachella would not receive any water during this program, and any priority issues would be the responsibility of the buyer, as was done in 1989 after the IID/Metropolitan Water District deal.
- (7) It should be made clear that IID wishes to pursue a long-term Quantification Settlement Agreement-type agreement, but only after some of the environmental issues are resolved.
- (8) Water would be offered to San Diego first, otherwise a Request for Proposals process would be used to determine the buyer, or buyers, and the price for any water transferred.
- (9) IID must stipulate that any challenges to its water rights during the term of this plan would result in immediate termination of the transfer.

Motion carried, with Director Allen abstaining.

A further motion was made regarding the defense of IID water rights.

Moved by Director Horne, seconded by Director Maldonado, that the Board direct legal counsel and IID staff to develop options for the Board to consider on how to fund for the protection of water rights in some way where the entire community would participate rather than just the water users. Motion carried.

ADJOURN – 7:30 p.m.