



November 18, 2019

BOARD AGENDA MEMORANDUM**Action**

SUBJECT Resolution Establishing Colorado River Parameters
DEPARTMENT Executive
PRESENTER Enrique Martinez, general manager
 Chuck DuMars, outside counsel

Background

The Colorado River is Imperial Valley's lifeblood. No single agency has a greater stake in the continued viability of the river system and Lake Mead. At the same time, no single agency is in a better position to contribute to, or provide a rapid response for, the river's changing hydrology due to persistent drought conditions.

Further, the linkage between the Colorado River and the Salton Sea is inextricable, and the problem is one that both basins must deal with as a community of aligned interests.

IID has a priority right to 40 percent of the water available to the Lower Colorado River Basin. The district worked for well over five years to develop the parameters of a Drought Contingency Plan to be in force until 2026. IID is not a party to the DCP, because, in the end, the DCP fails to provide any contingency for the Salton Sea.

A new and more challenging set of negotiations now faces IID. These negotiations call for new Colorado River guidelines to go into effect in 2026. IID cannot effectively negotiate unless it clearly states, for the benefit of the entire basin, the nature of the district's relationship to its water rights, which were confirmed by the decree in *Arizona v. California* and made even more explicitly enforceable under the 2003 Quantification Settlement Agreement.

The proposed resolution sets parameters that protect IID's right to allocate water, to negotiate with others on the river, to safeguard the Salton Sea and to build coalitions and alliances with those of similar interests that, when codified in new guidelines, will define the scope of the district's continuing role in the coordinated operations of the Colorado River.

Financial Impact

None.

Recommendation

Staff recommends adoption of the resolution establishing Colorado River parameters.



**IMPERIAL IRRIGATION DISTRICT
RESOLUTION NO. 36 -2019**

**Resolution of the Imperial Irrigation District Board of Directors
Establishing Parameters in Future Colorado River Negotiations**

The Imperial Irrigation District is the owner in perpetuity of the Imperial Valley's present perfected water rights. That IID owns these rights has been recognized by the U.S. Supreme Court in *Arizona v. California* and was expanded upon, and protected from claims by others, through the Quantification Settlement Agreement.

The combination of these two actions results in what are essentially the most senior water rights on the Colorado River system, with an annual entitlement that is capped at 3.1 million acre-feet for the duration of the QSA.

Established by a vote of the people in 1911, IID is the largest irrigation district in the nation and California's third largest public power provider. Since the QSA was signed in 2003, it has been a key participant in the nation's largest agricultural-to-urban water transfer, which has generated nearly 6 million acre-feet of conserved water for use in urban Southern California and to mitigate impacts to the Salton Sea.

No single agency has a greater stake in the continued viability of the Colorado River water delivery system at Lake Mead, as it is the Imperial Valley's only source of water; at the same time, no single agency is in a better position to contribute, or to provide a rapid response, if called on, in addressing the river's changing hydrology.

The rationale for the transfer of conserved water from the farms and fields of the Imperial Valley to urban users was to improve overall efficiency and better protect the district's large and senior water rights.

IID is a citizen of the Colorado River community, meeting all of its performance milestones under the QSA, but it is necessarily in the water delivery business, not the transfer business.

IID distributes 97 percent of its delivered-water to agricultural water users in the Imperial Valley, who use it to grow food and fiber to feed the nation and the world. The water these agricultural producers save through active, efficiency-based measures that, unlike fallowing, generate an economic stimulus in the region, is administered, and verified, through IID's on-farm water conservation program.

It is in the Imperial Valley's interest for this voluntary, incentive-based water conservation program to realize its fullest potential, instead of being constrained by artificial barriers that unfairly penalize the district and its water users.

The water delivered by IID in the exercise of its water rights is held in trust for its beneficial users, and shall be made available to all water users for reasonable and beneficial use within the Imperial Valley. This is a public trust that vests its decision-making responsibility in a duly elected board of directors that, in turn, derives its authority from the people that it serves.

The trust provides for the IID board to determine, in its best judgment, the parameters for water distribution among all of its users within the service area. Its criterion shall be whether the proposed use advances the interests of the Imperial Valley, taken as a whole.

All water users served by IID have the duty to place that water to reasonable and beneficial use within the Imperial Valley.

Under the trust, IID must ensure that water is used in a manner that is consistent with the reasonable-and-beneficial-use standard, promotes water conservation and does no harm to IID's senior water rights or its standing on the Colorado River.

No new transfers of water shall be made outside the Imperial Valley.

However, the district's on-farm water conservation program, which has shown that it can be relied on to produce significant water savings, is scalable and has been widely accepted by IID's agricultural water users. If it is possible to conserve water beyond the amount that is required for beneficial use in the Imperial Valley, in a given year, that additional conserved water might be made available for temporary use or storage outside the Imperial Valley if:

The IID board determines, by its affirmative vote during a regular board meeting, that it is in the best interest of the people of the Imperial Valley to approve such a temporary use;

IID is acknowledged, within the Imperial Valley and without, as the Section 5 contract holder for the area with the U.S. Bureau of Reclamation and the exclusive agent for all Colorado River matters. Only the IID board or its designee(s) can negotiate for the district;

Such temporary use must meet the requirements of the California Environmental Quality Act, the National Environmental Policy Act and any other applicable state or federal environmental laws.

It is a fact that IID would not have agreed to become a signatory to the QSA, but for the state of California's commitment to restore the Salton Sea. If the state were to fail in its commitment to a sustainable path forward at the sea, IID will consider the QSA to have been breached, and will take all actions necessary to preserve its own rights and the public health.

IID has called for a smaller but sustainable sea, because it recognizes that the combination of a changing hydrology on the Colorado River watershed and the impacts of agricultural-to-urban water transfers will not support a lake the size of the Salton Sea today. The linkage between the Colorado River and the Salton Sea is inextricable, and the problem there is one that both basins must now reckon with as a community of aligned interests.

The Salton Sea is nothing less than the proving grounds of the QSA, and the Imperial Irrigation District Board of Directors will take no action, with respect to the temporary use of its water or water rights, that would impede its restoration.

PASSED AND ADOPTED by the Board of Directors of the Imperial Irrigation District this 18th day of November, 2019.

IMPERIAL IRRIGATION DISTRICT

President

Secretary