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LES W. RAMIREZ
ATTORNEY AT LAW

POST OFFICE BOX 4546
ALBUQUERQUE, NEW MEXICO 87108
TELEPHONE (505) 254-7812
FACSIMILE (505) 255-8955

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Mr. Bruce Ellis
Environmental Resources Management Division
Bureau of Reclamation
Phoenix Area Office (PXA0-1500)
P.O. Box 81169
Phoenix, Arizona 85069-1169
Fax: 602-216-4006
Transmitted via Fax

Mr. Elston Grubaugh
Resource Planning and Management Department
Imperial Irrigation District
PO Box 937
Imperial CA 92251
Fax: 760-339-9009
Transmitted via Fax

**Re: Imperial Irrigation District Water Conservation and Transfer Project Draft
Environmental Impact Report/Environmental Impact Statement and Draft
Habitat Conservation Plan**

Dear Mr. Ellis and Mr. Grubaugh:

Please accept the following comments on the Draft Program Environmental Impact Report/Environmental Impact Statement ("DEIR/EIS") for the Imperial Irrigation District ("IID") Water Conservation and Transfer Project ("Project") Draft Habitat Conservation Plan ("DHCP"). These comments are submitted on behalf of the Torres Martinez Desert Cahuilla Indians ("Tribe"). The Tribe owns and enjoys the full use and benefit of the Torres Martinez Reservation ("Reservation"), which was reserved as the Tribe's permanent homeland. The Reservation is located on the northwest side of the Salton Sea and includes nearly 12,000 acres of land that has been inundated by inflows of Colorado River water into the Salton Sea.

The implementation of the IID Project will have direct impacts on the fish, wildlife, land, water, and cultural assets of the Tribe, none of which are properly considered by the DEIR/EIS or the DHCP. This failure to adequately consider the impacts of the Project on Tribal assets or to provide adequate mitigation measures for foreseeable impacts

**Letter - T1. Torres Martinez Desert Cahuilla Indians.
Signatory - Les W. Ramirez.**

Response to Comment T1-1

Your comments are noted. Please refer to individual comment responses below for the specific comments in your letter.

constitutes a violation by the Bureau of Reclamation of the trust obligation that the United States owes to the Tribe.

While the Tribe recognizes that the federal government must assist in the effort to reduce California's Colorado River water consumption to 4.4 million acre-feet per year, the United States cannot sacrifice Tribal trust resources in the process. Federal agencies must fulfill their trust obligations while conducting any action that impacts trust assets. The federal courts have repeatedly recognized this obligation of the United States to protect trust resources, including the preservation of water for tribal fisheries (*Pyramid Lake Paiute Tribe v. Morton*, 354 F. Supp. 252 (D.D.C. 1972)) and the preservation of wildlife resources (*Northern Arapaho Tribe v. Hodel*, 808 F.2d 741 (10th Cir. 1987)).

In regard to the Endangered Species Act, the federal Court of Appeals for the 9th Circuit has held that even when the federal government satisfies the requirements of the Endangered Species Act, it may fail to fulfill its trust obligation to protect tribal resources (*Pyramid Lake Paiute Tribe v. U.S. Dept of Navy*, 898 F.2d 1410 (1990)). While the above cases relate to tribes whose trust assets were established by treaties, the 9th Circuit has also recognized that, for the purpose of protecting on-reservation tribal rights, including fishing rights, there is no difference between reservations created by treaty or by executive order, such as the Tribe's Reservation. (*Parravano v. Babbitt*, 70 F.3d 539 (1995)). The U.S. Supreme Court has also recognized that the nullification of tribal hunting and fishing rights that are based on statute, as are the Tribe's, gives rise to a claim for compensation. (*Shoshone Tribe v. U.S.*, 299 U.S. 476 (1937)).

The DEIR/EIS and the DHCP fail to provide adequate information for either the Tribe or its federal trustee agencies to make informed decisions regarding the implementation of the Project or the DHCP. Of greatest concern is the lack of true consideration of impacts to Tribal trust assets due to the indecision of what mitigation methods will be utilized and the use of faulty assumptions in the development of the environmental baseline. These assumptions, which greatly exaggerate the rate of deterioration of the water quantity and quality of the Salton Sea under current No Project conditions, obscure critical concerns and under-calculate the real environmental impacts of the Project. The adoption of this flawed baseline would allow the action agencies to create a final EIR/EIS and HCP that would avoid addressing critical issues and would fail to provide meaningful options to avoid or properly mitigate the environmental impacts of the Project. Therefore, the acceptance of the DEIR/EIS by the Bureau of Reclamation in its current form or the approval of the DHCP by the Fish and Wildlife Service would constitute a breach of the United State's fiduciary duty to protect the trust assets of the Tribe.

Trust Assets

The DEIR/EIS acknowledges that preliminary inquiries were made by representatives of Indian tribes and the Bureau of Indian Affairs regarding the potential for impacts to the Salton Sea and Indian trust assets, such as Indian water rights. (ES-15). Given this forewarning it is surprising that the DIER/EIS fails to adequately accommodate these

Response to Comment T1-2

As described in the response to comment T1-4, the Draft EIR/EIS has been revised to provide additional information on the impacts to trust assets and proposed mitigation. These changes are indicated in this Final EIR/EIS in subsection 3.9 under Section 4.2, Text Revisions.

Response to Comment T1-3

Refer to the Master Response on *Hydrology—Development of the Baseline* in Section 3 of this Final EIR/EIS. For tribal asset issues, refer to the revised Indian Trust Assets section (see subsection 3.9 under Section 4.2, Text Revisions, of this Final EIR/EIS).

Response to Comment T1-4

The tribe's water rights have not been adjudicated or quantified. It is beyond the scope of the EIR/EIS to speculate about the outcome of future water rights determinations. The Draft EIR/EIS has been revised to include a better description of potential impacts to the groundwater resources utilized by the tribe, and of proposed mitigation of those impacts. This change is indicated in this Final EIR/EIS in subsection 3.9 under Section 4.2, Text Revisions.

T1-1

T1-2

T1-3

T1-4

T1-4

concerns. In its current form, the DEIR/EIS contains no meaningful discussion of impacts to Tribal water rights.

T1-5

The DEIR/EIS itself recognizes that the Summary of Indian Trust Assets Impacts is incomplete as the determinations of the potential impacts from the DHCP biological conservation measures have not yet been completed by the Fish and Wildlife Service. (3.9-2, fn1). This admission alone indicates a knowing breach of the federal trust obligation, and, concurrently, is a failure to adequately analyze impacts to Indian Trust Assets. The Fish and Wildlife Service is not the source of this breach (unless it approves the current DHCP), the breach is perpetuated by the Bureau of Reclamation, which has failed to provide a commitment to well-defined conservation measures within the DHCP.

T1-6

The DEIR/EIS fails to provide an adequate analysis of the Project's potential environmental impacts to the Salton Sea, leaving the Tribe in a state of uncertainty about the future of the Sea, one of its most precious natural resources. The DEIR/EIS begins by utilizing a delineation of the area covered by the DHCP that is improperly narrow. The DHCP includes the Salton Sea and a mere 0.5 feet around the Sea within its scope, but does not include any of the shoreline or adjacent areas to the north, northwest or east of the Salton Sea that will undoubtedly be impacted by the issues that are contemplated in the DEIR/EIS and DHCP, including massive fish and bird mortality, air quality degradation, and deposition of contaminants by the lowering of the Sea elevation. Nor does the DHCP include any description of the Salton Sea itself in its account of the location, regional setting, or physical environment of the DHCP area. (2-1 to 2-13).

T1-7

While the DEIR/EIS does recognize that the forecasted lower elevation of the Salton Sea will impact the trust assets of the Tribe, it naively identifies only vandalism and erosion as possible negative effects. Alternatively, the DEIR/EIS states that the lowering of the Salton Sea may provide the Tribe with opportunities for exploitation of natural resources. (ES-34). This analysis ignores the existence of flowage easements over the inundated portions of the Torres-Martinez Indian Reservation held by CVWD and IID that would severely limit the purported economic development opportunities available to the Tribe. In addition, even if the Tribe could access some resources that are currently inundated by the Salton Sea after the Sea recedes, the negative impact to the Trust resources that the Sea currently supports far outweigh the nominal benefits that may be derived from any currently submerged resources. Thus the analysis within the DEIR/EIS is contradictory in light of the action agencies' own recognition of Tribal concerns that newly exposed shoreline soils may be severely contaminated by salts, DDT, and other contaminants. (3.9-6). In spite of the awareness of these concerns, the DEIR/EIS takes the inappropriate approach of not considering these impacts, merely because the soils have not yet been tested. (See also the discussion below regarding air quality impacts of contaminated soils).

T1-8

Mitigation

The DHCP does not currently achieve the standards established in §§10(a)(2)(B)(ii) and (iv) of the Endangered Species Act, that incidental take permitted by the Secretary of the Interior, "will not appreciably reduce the likelihood of the survival and recovery of

Response to Comment T1-5

HCP Approach 1 has been eliminated from further consideration in the Final EIR/EIS. Refer to the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 3 of this Final EIR/EIS. Also, refer to the Master Response on *Biology—Timing of Implementation of Biological Mitigation Measures* in Section 3 of this Final EIR/EIS.

Response to Comment T1-6

The description of the HCP area in the HCP (Section 1.4) does not specify that only the area within 0.5 foot of the Sea is included in the HCP area. Further, the HCP addresses impacts to covered species using the Salton Sea and adjacent areas that could be influenced by reductions in the surface water elevation of the Sea. For example, Salton Sea - 3 of the Salton Sea Habitat Conservation Strategy addresses potential changes in all of "adjacent wetland" areas dominated by tamarisk scrub regardless of its location. As part of the existing conditions, the Salton Sea is described in Section 2.3.2.4 of the HCP.

Response to Comment T1-7

The Draft EIR/EIS has been revised to address this comment. These changes are indicated in this Final EIR/EIS in subsection 3.9 under Section 4.2, Text Revisions.

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

Response to Comment T1-7 (continued)

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

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 ecological 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 ecological 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

Response to Comment T1-7 (continued)

were collected at 16 sites. Selenium concentrations in these sediments ranged from 0.2 mg/kg 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.

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

Response to Comment T1-7 (continued)

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.

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.

(**Note:** In addition to the sediment information summary presented here, 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 3 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].)

the species in the wild.” and that, “the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking.” The Project will clearly reduce the probable survival rates of listed piscivorous bird species by dramatically accelerating the mortality of fish populations in the Salton Sea. Furthermore, the DHCP fails to set forth a decisive, reliable mitigation strategy. These failings of the DHCP are of immense concern as the DHCP, if approved in its current form, will provide regulatory assurance to IID that additional or meaningful mitigation measures will not be required to address impacts to the covered species, putting at risk the covered species’ ability to recover in the wild.

T1-8

The indecision manifest in the DHCP regarding which of two very different proposed approaches IID may eventually utilize to mitigate impacts to covered species at the Salton Sea makes any informed evaluation or decision-making impossible, whether by the Tribe or the federal trustee agencies.

T1-9

Approach 1 provides for the construction of a fish hatchery to stock fish into the Salton Sea until the salinity level of the Sea reaches intolerable levels. At that point, IID would construct 5,000 acres of fishponds at the south end of the Salton Sea. It is hoped, although by no means conclusively established, that these fishponds would be utilized and would adequately support covered populations of piscivorous birds. The DHCP does not define the saline tolerance level and chooses the most saline tolerant non-native species as its indicator of saline tolerance. This ambiguity of the saline tolerance level leaves the date of pond construction an open question. In addition, the design and potential locations of the fishponds are not described with sufficient detail to allow for any analysis of their potential viability as a meaningful mitigation measure. For example, there is no discussion of why the ponds, which will apparently be filled with canal water (3-25), will not suffer the same water quality woes as the Salton Sea; or, how shorebirds, such as the snowy plover, will utilize 5-foot deep ponds as reproductive habitat. Therefore, under the DHCP as currently written, IID can wait until all but a few fish in the Salton Sea are killed off before breaking ground on the fishponds, which will likely prove to be ineffective.

T1-10

Amazingly, the DHCP concludes that no impacts to Tribal assets would occur from this rearrangement of the biological structure of the Salton Sea ecosystem. This mitigation approach is based on the occurrence of a die-off of all fish in the Salton, followed by a relocation of all piscivorous bird to the southern end of the Salton Sea. To the contrary, the impacts to the recreation opportunities accessed from the Reservation, such as fishing and bird watching, would be devastating. The DHCP’s approach contradicts the assertion that the Tribe will potentially enjoy increased economic benefits, which is utilized by the DEIR/EIS itself to determine that there will be no adverse impacts to the Tribe’s trust assets. (3.9-6)

T1-11

Approach 2 contemplates the use of conserved water to compensate for the reduced inflows that will be caused by the Project. This alternative proposes to maintain the level of the Salton Sea at its current baseline (Tribal concerns regarding the inaccuracy of the environmental baseline are discussed in detail herein). To do so, it is asserted that IID

T1-12

Response to Comment T1-8

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy* in Section 3 in this Final EIR/EIS.

Response to Comment T1-9

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy* in Section 3 in this Final EIR/EIS.

Response to Comment T1-10

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy* in Section 3 in this Final EIR/EIS.

Response to Comment T1-11

The Draft EIR/EIS has been revised to include additional information on the Tribe’s concerns about impacts to fish and wildlife resources. These changes are indicated in this Final EIR/EIS in subsection 3.9 under Section 4.2, Text Revisions. The proposed HCP Approach 2 (now referred to as Salton Sea Habitat Conservation Strategy) would fully mitigate impacts to sport fish and related recreation. Also, please refer to the Master Response on *Recreation—Mitigation for Salton Sea Sport Fishery* in Section 3 of this Final EIR/EIS.

Response to Comment T1-12

The approach to addressing Salton Sea impacts has been revised to avoid impacts through the use of additional water to offset reductions in inflow to the Sea resulting from water conservation and transfer (see the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 3 in this Final EIR/EIS). This revised approach does not preclude the use of water from other sources.

would conserve additional water, above and beyond the water conserved for transfer, and allow this water to flow to the Salton Sea. Not only has IID not defined how or where it will be able to conserve water for the purposes of the contemplated water transfers, but it also fails to recognize that the use of conserved water for Salton Sea restoration is a concept that has already been rejected by its own Board of Directors and numerous other local communities. Inclusion of this mitigation approach, without additional commitment by IID to implement it or requirements for IID to do so, is specious and casts a shadow of invalidity on the rest of the analysis provided in the DEIR/EIS and DHCP.

T1-12

The DHCP states that it does not consider mitigation alternatives set forth by the Pacific Institute or the Tri-Delta Wetland Project because of, "a lack of detail required to determine feasibility and address agency concerns." (3-26). However, the agency concerns are not set forth nor is the nature of the missing details explained. This lack of consideration predicated on a lack of detail is astonishing considering that the DEIR/EIS and the DHCP do not hesitate to rely on a tenuous model of predicted baselines, mitigation approaches that have yet to be determined and are likely to be unfeasible, and conservation strategies that have yet to be developed or defined.

T1-13

Just one example of the DHCP's own, "lack of detail required to determine feasibility and address agency concerns," is the approach set forth for pupfish conservation. The DHCP states that IID will ensure an appropriate level of conductivity between pupfish populations within individual drains. It does not state how this will be accomplished and it ignores the need to maintain genetic diversity supported by the current connectivity between populations in separate drains. In fact, the DHCP relies on the future development and implementation of a plan to preserve pupfish connectivity by the DHCP Implementation Team, which has yet to be convened. Other promises made by IID within the DHCP include the creation and maintenance of pupfish habitat, the construction of a pupfish refugium pond, and a study of how routine channel maintenance affects in-channel pupfish populations. The details of how all these complex tasks will be accomplished have yet to be determined, and the DHCP assigns these tasks in part to the HCP Implementation Team. (3-27).

T1-14

It must be noted that IID proposes to man the HCP Implementation Team with representatives from the California Game and Fish Department and the U.S. Fish and Wildlife Department, agencies that are already overburdened and financially strained and over which IID has no jurisdiction. The anticipated tasks of the HCP Implementation Team are extensive, going far beyond the design of pupfish mitigation measures; the DHCP implicates the Implementation Team in almost every future task that involves habitat modification or restoration. The DHCP does not detail how the Implementation Team will be funded or if its recommendations will have any authority that extends beyond its role as an advisory panel to IID.

T1-15

Salton Sea Water Quantity

The DEIR/EIS employs a baseline that is not an expression of current conditions at the Salton Sea, but rather is based upon a hydrologic model that predicts dramatic decreases in the elevation and quality of water in the Salton Sea that are out of synch with

T1-16

Response to Comment T1-13

Each of the various Salton Sea mitigation approaches considered in the HCP, including the Pacific Institute and Tri-Delta proposals, contained a high level of uncertainty regarding the ultimate outcome; therefore, they were removed from further consideration. Upon further review with USFWS and CDFG, and in consideration of comments on the Draft EIR/EIS, HCP Approach 1 also was removed from consideration. Please refer to the Master Responses on *Biology—Approach to Salton Sea Habitat Conservation Strategy* and *Hydrology—Development of the Baseline* in Section 3 of this Final EIR/EIS.

Response to Comment T1-14

The Salton Sea Habitat Conservation Strategy includes specific measures that are intended to adequately minimize and mitigate the impact of the take of any pupfish as a result of IID's covered activities. These measures include provisions to ensure connectivity among drains when salinity in the Salton Sea effectively precludes the ability of pupfish to use the Sea as a migration conduit. This measure outlines a strategy for mitigating impacts that would occur, if at all, about 70 years into the future. The measure clearly defines the intent and objective of the action (see measure Salton Sea-2 in the HCP, Attachment A of this Final EIR/EIS) and outlines possible approaches to constructing these connections. Although development of the construction details would be deferred, sufficient information is provided to give the HCP Implementation Team clear guidance on the intent of the measure, and to give the public and decisionmakers an understanding of the potential impacts. Similarly, the elements of the other measures intended to mitigate the impact of take of pupfish and to contribute to recovery contain sufficient information to clearly understand the commitment and obligations of IID and the potential impacts of implementing these measures. Some of the details of these measures will be developed by the HCP Implementation Team as part of the adaptive management program. Since release of the Draft EIR/EIS and HCP, IID has reviewed each of the elements of the pupfish conservation strategy with USFWS and CDFG, and has revised the HCP to address outstanding concerns. In addition, the adaptive management approach for desert pupfish in the HCP was revised to provide greater clarity. See Attachment A of the Final EIR/EIS for the revised version of the HCP.

Response to Comment T1-15

The roles and responsibilities of the Habitat Conservation Plan Implementation Team have been more clearly defined in Chapters 3, 4 and 5 of the HCP. The HCP IT will serve in an advisory capacity, providing recommendations and guidance in implementing the HCP. Compliance with the HCP measures will remain the sole responsibility of IID. Furthermore, while the HCP Implementation Team can make recommendations on various management actions, the USFWS and CDFG retain approval authority over various aspects of the HCP as identified in the Chapters 3, 4, and 5 of the revised HCP (see Attachment A of the Final EIR/EIS).

Response to Comment T1-16

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 3 of this Final EIR/EIS.