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11

12 **BEFORE THE**
13 **STATE WATER RESOURCES CONTROL BOARD**
14 **STATE OF CALIFORNIA**
15

16 In re Petition of Imperial Irrigation District and) **OUTLINE OF SUPPLEMENTAL EXPERT**
San Diego County Water Authority for) **TESTIMONY OF MAUREEN**
17 Approval of Long-Term Transfer of Conserved) **STAPLETON (FOR REBUTTAL CASE)**
Water and Changes in Point of Diversion, Place)
18 of Use and Purpose of Use Under Permit No.)
7643)
19)

20 I am Maureen Stapleton, General Manager of the San Diego County Water Authority
21 (SDCWA). My Statement of Qualifications and Written Testimony for Phase I was submitted
22 previously as SDCWA Exhibit 1.

23 **I. INTRODUCTION**

24 I am aware of certain testimony and exhibits offered by various parties to this proceeding in
25 their respective cases in chief and in cross-examination of various witnesses. This testimony is
26 offered in rebuttal to clarify some matters and to provide a context and a foundation for the exhibits
27 filed in connection with this testimony. I will address: (i) the impacts of the Water Conservation and
28 Transfer Program (Project), as defined by the pending Petition in this matter and the draft

1 Environmental Impact Report for the Project (DEIR/DEIS), within San Diego County; (ii) the
2 considerations that guided SDCWA in establishing a price for the conserved water to be transferred
3 to SDCWA by the Imperial Irrigation District (IID) under the Transfer Agreement,¹ and (iii) the
4 relationship between the method of conservation and the ability to obtain permitting from California
5 Department of Fish and Game (DFG) as well as potential socio-economic impacts.

6 **II. INTRA SAN DIEGO COUNTY IMPACTS**

7 **A. The Water Transfer is Not Growth Inducing**

8 Irrespective of how the conservation element of the Project is implemented by IID,
9 SDCWA's efforts to transfer conserved water from IID to SDCWA, if successful, will not be growth
10 inducing. As a resource agency having no land use regulatory power of its own, SDCWA merely
11 provides water facilities and supplies necessary to meet demands first determined by other public
12 agencies having Constitutional and statutory authority to regulate the pace, location, quality and
13 quantity of land development. SDCWA is simply seeking to match its firm water supplies to
14 regional water needs determined according to population growth first established by others. This
15 year, SDCWA has imported from MWD about 600,000 acre-feet of water to meet current demand.
16 Of this amount, we only consider about 320,000 acre-feet to be firm MWD supplies. With the IID
17 water transfer, SDCWA will convert up to 200,000 acre-feet of at risk water to firm supplies. Even
18 though this total amount of firm supply remains less than current usage it provides assurances
19 against the potential for devastating economic and social hardship like happened in the last drought.

20 In November 1988, the voters of San Diego County approved a regional planning and growth
21 control measure. The measure required the County of San Diego and each city in the county to
22 participate in formulating a regional growth management plan. The San Diego Association of
23 Governments (SANDAG) was designated as the regional growth management review board.
24 SANDAG is a joint-powers agency comprised of all the local government agencies that have land
25 use regulatory power in San Diego County. In 1989, the legislature charged SDCWA with
26 providing water sufficient to meet the needs of its member agencies serving the San Diego Region.

27 _____
28 ¹ IID Exh. 7: Agreement for Transfer of Conserved Water by and Between Imperial Irrigation District and San Diego
County Water Authority, dated April 29, 1998.

1 In 1993, SANDAG and SDCWA executed an agreement requiring SDCWA to use SANDAG's most
2 recent regional growth forecasts in determining water demands and the amount, types and phasing of
3 facilities needed to serve the forecast population.² The intent of the agreement is to assure
4 consistency between the land use and development regulations and policies of the county and cities
5 on the one hand, and the water supply and facility planning by SDCWA on the other. Since then
6 SDCWA has planned, sized and phased its water facilities and supplies to meet, concurrent with
7 need, the water demands determined according to SANDAG's regional growth projections as
8 implemented through land use regulations of the county and cities.

9 Contrary to testimony offered by National Wildlife Federation in its case in chief,³ SDCWA
10 is not responsible for developing general plans, instituting growth management ordinances or issuing
11 land use approvals under zoning and building ordinances. SDCWA is responsible for providing,
12 concurrent with need, wholesale water facilities, which together with local supplies of its member
13 agencies and demand reduction (conservation) programs, are sufficient to provide for the population
14 previously planned and anticipated by SANDAG and its component agencies. SDCWA has no land
15 use regulatory authority and makes no decisions about whether an individual development is
16 permitted or will proceed.

17 SDCWA supplies water to other public agencies, some cities, some municipal water districts,
18 some irrigation districts, some county water districts, and one public utility district. It has no
19 authority to offer retail water service as a public water system anywhere within its boundaries. Any
20 water supply that SDCWA does bring into its service territory is subject to apportionment by each
21 member agency within the SDCWA and is distributed at the discretion of the member agency that
22 provides the retail service. For example, the SDCWA has no input into whether the Helix Water
23 District, a member agency, may elect to extend water service to a new golf course or a given
24 development. SDCWA simply matches its supplies with the growth projections provided by
25 SANDAG. The pace, location and extent of that growth is regulated by SANDAG's own members,
26 the county and cities, using planning tools that include growth management and other plans

27 ² SDCWA Exh. 20: Memorandum of Agreement between SDCWA and SANDAG (Oct. 8, 1992); *See also* Wat. Code §
28 10915(e).

³ *See* Written Testimony of Dr. Suzanne Michel (NWF Exh. 14) and Mr. Craig Jones (NWF Exh. 3)

1 regulating the extent and timing of housing development on the one hand and facilities,
2 infrastructure and resources to support that housing on the other. For example, the City of Carlsbad
3 and the City of San Diego have adopted land use regulations regulating growth by assuring that
4 facilities, infrastructure and resources are available concurrent with need. These regulations are
5 coordinated with the SANDAG population projections.

6 In its case in chief, the National Wildlife Federation suggested that even if there was no
7 additional capacity in the Colorado River Aqueduct (CRA) being made available as a part of this
8 Project, the Project was nevertheless growth-inducing because SDCWA could always order more
9 water from Metropolitan Water District of Southern California (MWD).⁴ It is true that MWD could
10 pursue additional water to ultimately overcome shortages on the Colorado River. However, MWD
11 supplies to SDCWA are not firm. Furthermore, MWD's primary source of water other than the
12 Colorado River is the State Water Project.

13 Existing SDCWA treated water pipelines connecting SDCWA to MWD are presently
14 operating at a level that will meet planned needs for the next 6 to 15 years, after that new delivery
15 facilities will be required. The exact nature and extent of those facilities is not yet determined.
16 There is no proposal to add to that capacity as part of the water transfer, and the water transfer has
17 no impact on the need or timing of those facilities. In fact, SDCWA consistently has been on record
18 with MWD that the construction of Pipeline Six should be delayed because SDCWA believes that
19 facilities should be constructed concurrent with need, not before. Additionally, while some capacity
20 does exist in SDCWA's untreated water pipelines, neither SDCWA (or its member agencies) or
21 MWD has the ability to treat significantly greater quantities of water – i.e., the treatment facilities
22 themselves are at or near full capacity – and there is no proposal to increase treatment facility
23 capacity as part of the proposed Project. In any event, SDCWA can rely upon MWD to provide only
24 up to that quantity of water determined according to Section 135 of the Metropolitan Water District
25 Act, an amount which, as currently determined by MWD, is only about 32,000 acre-feet per year.

26 Additionally, contrary to assertions made by the National Wildlife Foundation's witnesses,⁵

27 ⁴ NWF Exh. 3: Written Testimony of Mr. Craig Jones; Oral testimony of Mr. Craig Jones (Record transcript citations
28 not yet available).

⁵ Oral testimony of Mr. Craig Jones (Record transcript citations not yet available).

1 the proposed Emergency Storage Project (ESP) does not provide additional capacity. The Final
2 Environmental Impact Report for the ESP was certified in 1996. Its operation is limited for the
3 purposes of providing an emergency supply. It does not provide carry-over storage for anything
4 other than “emergency use” and it does not materially impact SDCWA's ability to receive or convey
5 more imported water.⁶

6 **B. There Will Be Greater Adverse Impacts to Quality of Life, Aesthetics and Fish**
7 **and Wildlife in San Diego County Than if the Transfer is Not Completed.**

8 The National Wildlife Federation indicated in its testimony that providing more reliable
9 water supplies would cause adverse impacts to quality of life and to fish and wildlife resources in
10 San Diego County.⁷ However, maintaining and preserving reliable imported water supplies is more
11 likely to result in improved environmental conditions and an improved overall quality of life within
12 San Diego County than if water supplies were less reliable.

13 With the consistent performance of the Colorado River supply, the entire Southern California
14 economy has grown up in dependence upon that water. If the Colorado River should suddenly
15 become unavailable, there could be serious impacts on the environmental conditions within Southern
16 California. For example, if MWD were unable to offset reductions in Colorado River water while it
17 was securing replacement water from other sources, there could be lesser quantities of imported
18 water and corresponding loss of irrigation run-off available in local surface streams that may be
19 enjoyed by fish and wildlife.

20 Having a reliable supply of water means that a region and its communities can plan in a
21 manner that sustains a reasonable quality of life, supports a vibrant economy and assures protection
22 of environmental resources. Shortages associated with “paper” water planning, on the other hand,
23 can result in dire consequences to a region’s quality of life, the economy and the environment. The
24 health, safety and welfare of a community are enhanced when land planning and water planning are
25 coordinated so that firm supplies are available to support not only personal consumption and
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27 ⁶ SDCWA Exh. 51: Resolution No. 96-31 – A Resolution of the Board of Directors of the San Diego County Water
28 Authority (1) Approving a Proposed Emergency Water Storage Project; (2) Adopting Findings of Fact; and (3) Adopting
a Statement of Benefits and Overriding Considerations (August 15, 1996).

⁷ NWF Exh. 14: Written Testimony of Dr. Suzanne Michel.

1 sanitation but fire protection and agricultural needs.

2 The San Diego region has one of the most productive agricultural industries in the state. It is
3 dependent on high value crops, trees and orchards need water to survive. Municipal, industrial and
4 many forms of agricultural uses can modify their practices to weather a drought. Orchards are not so
5 easy to adapt. A prolonged shortage caused serious adverse impacts on San Diego's agricultural
6 economy in 1987-1992. Yields from avocado orchards were severely reduced as many farmers
7 stubbed their trees for several years and eliminated some orchards entirely. If MWD's ultimate
8 procurement of replacement water turns out to be difficult and more expensive to implement, these
9 adverse impacts could be prolonged.

10 **III. PRICE FOR CONSERVED WATER TRANSFERRED TO IID**

11 Steven Spickard, a witness for the County of Imperial, suggested that SDCWA's economic
12 ability to pay for water is relevant to determining the price that SDCWA should pay IID for water.⁸
13 In addition, the County of Imperial, among other parties in their respective cases in chief, have
14 suggested that the contract price to be paid by SDCWA is insufficient to cover the actual costs
15 incurred and potential impacts that may be felt by the broader community in Imperial County.⁹
16 However, the fact is that SDCWA has always wanted and pursued a "win-win" transfer with IID.
17 That is one reason why SDCWA initially agreed to consider the cost of "on farm conservation" as an
18 important factor in establishing the price of water SDCWA would be willing to pay IID under the
19 Transfer Agreement. In SDCWA's assessment the price for water established in the Transfer
20 Agreement reflects all of the following factors:

- 21 • The cost of conservation,¹⁰ environmental mitigation, administration and the desire to
22 avoid adverse socio-economic impacts.¹¹

23 ⁸ See County Exh. 3A: Testimony of Mr. Steven Spickard.

24 ⁹ Oral testimony of Mr. Steven Spickard (Record transcript citations not yet available).

25 ¹⁰ See SDCWA Exh. 53: SDCWA Board Letter re: Approve the Release of the Proposed IID Water Transfer Agreement
26 (Action) (Dec. 11, 1997); SDCWA Exh. 55: Confidential Interoffice Memorandum to SDCWA Board of Directors re:
27 Due Diligence on Proposed Water Conservation and Transfer Agreement with Imperial Irrigation District (IID) (Feb.12,
28 1998); SDCWA Exh. 56: SDCWA Board of Directors Meeting Agenda for January 27, 1998, 1:30 p.m., including Peter
Canessa, Agricultural Consultant, Presentation.

¹¹ IID Exh. 7: Agreement for Transfer of Conserved Water by and Between Imperial Irrigation District and San Diego
County Water Authority, dated April 29, 1998 ("no fallowing" provision; requirement that a minimum of 130,000 acre-
feet be generated from on farm conservation).

- 1 • The cost of alternative water available to SDCWA from MWD.¹²
- 2 • The emerging California water market and the concept that certain types of
- 3 comparable transactions would be useful in establishing price. In my view, the
- 4 Transfer Agreement effectively blends these factors in reaching a pricing structure
- 5 that is fair to both IID and to SDCWA.¹³
- 6 • The cost of transporting the water to SDCWA.¹⁴
- 7 • The proven reliability of IID's water as compared to other sources of supply.¹⁵

8 **IV. UNCERTAINTY OF THE PROPOSED CONSERVATION PROGRAM**

9 Irrespective of the conservation method selected by IID, real, wet water (as opposed to paper
10 water) will be transferred to SDCWA. So long as IID agrees to quantify its use at 3.1 million acre-
11 feet and to forebear from its diversions so that water can be transferred to SDCWA in accordance
12 with the Implementation Agreement¹⁶, there is no question that the program will yield conserved
13 water for the transfer.

14 Individual farmers and the County of Imperial have offered testimony that the IID
15 conservation program is vague and undefined and it may discourage farmer participation.¹⁷
16 However, so long as IID has agreed to forebear from its diversion of 3.1 million acre-feet (i.e., not
17 take delivery of up to 200,000 acre-feet per year) and the Secretary of Interior agrees to make the
18 conserved water available to SDCWA, responsibility for structuring and implementing the
19 conservation program properly lies with IID. The uncertainty regarding the specific measures that
20 will be adopted by IID to conserve the water will not make the bargained for savings any less real.

21
22 ¹² IID Exh. 7: Agreement for Transfer of Conserved Water by and Between Imperial Irrigation District and San Diego
County Water Authority, dated April 29, 1998 (Exh. E: Price Redetermination).

23 ¹³ Prior to agreeing to pursue the Transfer Agreement and continuously thereafter, SDCWA has investigated other
24 transactions and the costs of alternative water supplies. (See, e.g., SDCWA Exh. 54: SDCWA Board Letter Via Ad Hoc
25 Imported Water Committee re: Summary and Analysis of Recent Western Water Transfer Activity (Information) (Nov.
14, 1996); SDCWA Exh. 57: Draft Market Price/Indexing Mechanism for Water Transfers Report to The San Diego
County Water Authority by Foster Associates, Inc. (Mar., 1997).

26 ¹⁴ See SDCWA Exh. 53: SDCWA Board Letter re: Approve the Release of the Proposed IID Water Transfer Agreement
(Action) (Dec. 11, 1997); SDCWA Exh. 14: Agreement Between MWD and SDCWA for the Exchange of Water (Nov.
10, 1998).

27 ¹⁵ SDCWA Exh. 54: SDCWA Board Letter Via Ad Hoc Imported Water Committee re: Summary and Analysis of
Recent Western Water Transfer Activity (Information) (Nov. 14, 1996).

28 ¹⁶ IID Exh. 22e: Implementation Agreement (Draft, Dec. 12, 2000).

¹⁷ See, e.g., RT, at 227-228; RT, at 231-235; RT, at 237-245; RT, at 525.

1 Moreover, it was contemplated by SDCWA, and the Transfer Agreement provides, that the
2 IID farmers would not be required to subscribe to a conservation program until after the SWRCB
3 had approved the transfer and the Final Environmental Impact Report had been certified. By having
4 these contingencies satisfied first, the farmers within IID would have greater certainty regarding the
5 parameters and financial risks associated with the specific program. In other words, the farmers'
6 concern about uncertainty of the specifics of the conservation program should be understood in the
7 context that IID will be able to answer these concerns after the EIR/EIS for the Project is complete
8 and approvals of the Petition have been obtained.

9 The County of Imperial offered testimony that the term “fallowing” is not clearly provided
10 and there is no indication of whether the conservation program ultimately proposed by IID would
11 comply with the provisions of Water Code Section 1011 and the limitation of “temporary
12 fallowing.”¹⁸ However, “temporary fallowing” could be defined by the IID Board in its regulations
13 or in landowner contracts implementing the conservation program. In addition, a report prepared by
14 IID that outlines the conservation program being utilized to generate conserved water for transfer
15 could be submitted to the SWRCB. If the SWRCB determined that the proposed conservation
16 program was properly in accordance with Water Code Section 1011, the SWRCB could then accept
17 the report and notify IID, SDCWA and the parties to this proceeding of that approval, and thus of its
18 permission to proceed with the actual transfer of conserved water. This procedure would provide
19 additional notice and clarification regarding the details of the chosen conservation program and the
20 meaning of the term “temporary fallowing.”

21 **V. METHOD OF CONSERVATION**

22 **A. Impacts on Fish, Wildlife and Air Quality**

23 In a meeting in Sacramento on Tuesday May 21, 2002, SDCWA was informed by Bob Hight,
24 Director of the DFG, that the fishery pond mitigation measure described in Habitat Conservation
25 Plan (HCP) Approach 1¹⁹ to the DEIR/DEIS is "not permissible." SDCWA is further informed by
26 Mr. Hight that the DFG intends to issue a letter within the next week confirming this fact. It is

27 ¹⁸ RT, at 736.

28 ¹⁹ IID Exh. 55: IID Water Conservation and Transfer Project Draft Habitat Conservation Plan, Draft Environmental
Impact Report / Environmental Impact Statement (Jan. 2002).

1 important to place this new information in context – it does not constitute DFG’s refusal to permit
2 the Project. The DEIR/DEIS contains alternative methods to generate the conserved water,
3 including Alternative 4, which is an all-fallowing and permanent fallowing approach. In addition,
4 there is HCP Approach 2 that includes fallowing as a mitigation measure.

5 Testimony has been presented in this proceeding by numerous environmental organizations
6 to the effect that if IID pursues an “on-farm” conservation program as referenced in the DEIR/DEIS,
7 it may reduce the quantity of in-flow into the Salton Sea and it is thereby alleged that this will result
8 in unreasonable impacts on fish and wildlife, as well as air quality.

9 However, some parties, including the Salton Sea Authority among others, have suggested
10 that if a fallowing program such as that described in HCP Approach 2 or Alternative 4 to the
11 DEIR/DEIS were employed instead of the proposed “on farm” conservation program, there would be
12 adequate water for transfer and yet concerns regarding impacts on the Salton Sea attributable to the
13 Project would “evaporate.”²⁰ Additionally, as noted above, DFG has indicated that an approach that
14 keeps the Salton Sea whole, in other words, an approach that will avoid significant impacts to
15 species by maintaining water levels against recession attributable to the Project can be permitted.

16 **B. Socio-Economic Impacts**

17 In recognition of the IID's autonomy, an important premise of the Transfer Agreement was
18 that conserved water would be generated through a mix of IID system improvements and “on-farm
19 conservation” by methods other than fallowing. The Transfer Agreement requires that a minimum
20 amount of conserved water, 130,000 acre-feet, be generated by "on farm conservation." It was
21 SDCWA's belief, and the DEIR/DEIS confirms, that the conservation of water through these
22 approaches would not cause significant adverse socio-economic impacts to Imperial County.

23 However, given the prospect that Approach 1 to the HCP appears to be "not permissible,"
24 SDCWA recognizes that increased attention may be given to the socio-economic impacts associated
25 with alternative forms of conservation, specifically fallowing. In fact, previous testimony and
26 evidence offered by some parties suggests that there may be a wide-range of potential socio-
27 economic impacts attributable to specific forms of conservation, including fallowing, that could be

28 ²⁰ Salton Sea Authority Exh. 1: Testimony of Tom Kirk, p. 2.

1 employed by IID to make conserved water available for transfer.²¹ The DEIR/DEIS itself contains a
2 broad discussion of the potential socio-economic impacts associated with the proposed Project.²²

3 In his direct testimony, Dr. Smith further identified potential socio-economic impacts that
4 might result from a fallowing program and that these impacts might be substantial.²³ However, Mr.
5 Steven Spickard, in his direct testimony, indicated that the socio-economic effects of a fallowing
6 program might differ based upon the types of crops that were targeted.²⁴ The County of Imperial
7 also offered a report regarding fallowing and potential socio-economic impacts associated with a
8 fallowing approach.²⁵ Tom Kirk from the Salton Sea Authority testified that there might be ways to
9 reduce socio-economic impacts by pursuing only temporary fallowing on a rotational basis and
10 targeting specific crops.²⁶

11 In light of the above-referenced position of DFG on the prospects of permitting HCP
12 Approach 1, and thus the continued need to reduce or mitigate for potentially adverse impacts on
13 fish and wildlife resources, coupled with the potential for socio-economic impacts associated with a
14 conservation program that includes fallowing, as identified by the DEIR/DEIS and testified to by Dr.
15 Smith, SDCWA retained one or more experts to assist it in developing some recommendations for
16 consideration by its Co-Petitioner regarding alternative approaches or methods of conservation that
17 might be used to reduce socio-economic impacts. SDCWA also filed a comment letter regarding the
18 DEIR/DEIS's consideration of socio-economic impacts, among other things.²⁷

19 Mr. Peter Canessa, SDCWA's expert on agricultural practices, has informed me that a farmer
20 would likely incur some direct costs in temporary fallowing land for disking the land and in
21 developing some natural cover for the surface. In addition, some additional water for dust control
22

23 _____
24 ²¹ See, e.g., IID Exh. 65: Testimony of Dr. Rodney Smith; County Exh. 1 and 1A: Witness Testimony of Jurg
Heuberger; County Exh. 3 and 3A: Written Testimony of Steven Spickard.

25 ²² IID Exh. 55: IID Water Conservation and Transfer Project, Draft Habitat Conservation Plan, Draft Environmental
Impact Report / Environmental Impact Statement § 3.14, Appen. G (Jan. 2002).

26 ²³ RT, at 951-956.

27 ²⁴ County of Imperial: Oral testimony of Mr. Steven Spickard (record transcript not yet available).

28 ²⁵ County of Imperial Exh. 1d.

²⁶ Salton Sea Authority: Opening Statement in Phase 2 (record transcript not yet available).

²⁷ SDCWA Exh. 52: SDCWA Comment Letter re: Draft Environmental Impact Report (EIR) Environmental Impact
Statement (EIS) for the Imperial Irrigation District Water Conservation and Transfer Project and Draft Habitat
Conservation Plan (SCH No. 99091142) (April 25, 2002).

1 and pre-irrigation may be required.²⁸ However, while the costs to the farmer are comparatively well
2 understood, the indirect (or third party) costs to the community are not.

3 Dr. Smith testified as to potential impacts and stated on cross-examination that he was
4 “skeptical” that a fallowing program with attendant social mitigation programs could be employed to
5 reduce socio-economic impacts below those identified in his testimony.²⁹ Therefore, SDCWA
6 retained the services of Dr. David Sunding from the University of California Berkeley to provide
7 SDCWA with an outline of the potential elements that might be considered by IID in developing a
8 conservation program that includes temporary fallowing that would reduce the identified impacts. A
9 copy of his report to me is submitted herewith.³⁰

10 Having reviewed Dr. Sunding’s report, along with prior testimony submitted in this
11 proceeding and the DEIR/DEIS, it is my opinion that the following factors, if incorporated in a water
12 conservation program, would be important features in a program designed to reduce any resulting
13 socio-economic impacts.

- 14 (i) temporary fallowing,
- 15 (ii) targeting specific crops,
- 16 (iii) rotating specific properties in and out of the program over a defined number of years,
- 17 (iv) structure how the payments are made – i.e., maximizing payments to farmers as
18 opposed to landowners, and
- 19 (v) targeting specific soils.

20 In light of these considerations and additional information, SDCWA would support IID
21 proceeding with the conservation program element of the Project under any of the following three
22 scenarios:

23 A. The SWRCB concludes that the socio-economic impacts that are avoided by on-farm
24 conservation program along with the benefits of the California Colorado River Water Use Plan
25 outweigh the potentially adverse impacts on fish and wildlife alleged to be attributable to the Project;
26 or

27 ²⁸ See SDCWA Exh. 58: Memorandum from Peter Canessa, P.E., to Bob Campbell, SDCWA (May 24, 2002)

28 ²⁹ RT, at 967.

³⁰ See SDCWA Exh. 59: Memorandum from David Sunding, Ph.D., to Bob Campbell, SDCWA (May 21, 2002).

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B. IID agrees to arrange for, secure and implement effective mitigation of any potentially adverse impacts on fish and wildlife that are attributable to the proposed Project in the event the SWRCB finds such impacts to be unreasonable; or

C. IID agrees to (i) monitor Salton Sea elevations, and (ii) employ conservation measures as part of the proposed Project that avoid significant impacts to species by maintaining water levels against recession attributable to the Project.³¹

³¹ If one assumes that the Salton Sea will continue to recede, as the recent historical evidence suggests (IID Exh. 70), then the Project should not be responsible for mitigating conditions that are not attributable to the Petition, including reduced water orders by IID farmers.

