

STATE WATER RESOURCES CONTROL BOARD

PUBLIC HEARING ON AMENDED JOINT PETITION OF THE
IMPERIAL IRRIGATION DISTRICT AND THE SAN DIEGO COUNTY WATER
AUTHORITY FOR APPROVAL OF A LONG-TERM TRANSFER OF CONSERVED
WATER PURSUANT TO AN AGREEMENT BETWEEN IID AND SDCWA, AND
APPROVAL OF CHANGES IN POINT OF DIVERSION, PLACE OF USE AND
PURPOSE OF USE UNDER PERMIT NO. 7643 (APPLICATION 7482).

MONDAY, APRIL 22, 2002
10:00 A.M.

CAL EPA BUILDING
SIERRA HEARING ROOM
SACRAMENTO, CALIFORNIA

REPORTED BY:

ESTHER F. SCHWARTZ
CSR 1564

CAPITOL REPORTERS (916) 923-5447

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

STATE WATER RESOURCES CONTROL BOARD:

ARTHUR G. BAGGETT, JR., CHAIR

STAFF:

TOM PELTIER
ANDREW FECKO

COUNSEL:

DANA DIFFERDING

---oOo---

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPRESENTATIVES

FOR IMPERIAL IRRIGATION DISTRICT:

ALLEN MATKINS LECK GAMBLE & MALLORY
501 West Broadway, 9th Floor
San Diego, California 92101-3577
BY: DAVID L. OSIAS, ESQ.
and
MARK HATTAM, ESQ.

FOR SAN DIEGO COUNTY WATER AUTHORITY:

HATCH AND PARENT
21 East Carillo Street
Santa Barbara, California 93102-0720
BY: SCOTT SLATER, ESQ.
and
STEPHANIE HASTINGS, ESQ.

FOR COACHELLA VALLEY WATER DISTRICT:

BOLD, POLISNER, MADDOW, NELSON & JUDSON
500 Ygnacio Valley Road, Suite 325
Walnut Creek, California 94596
BY: ROBERT MADDOW, ESQ. - SPECIAL COUNSEL

REDWINE AND SHERRILL
1950 Market Street
Riverside, California 92501
BY: GERALD SHOAF, ESQ.
and
STEVEN B. ABBOTT, ESQ.

FOR METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA:

ELLISON, SCHNEIDER & HARRIS
2015 H Street
Sacramento, California 95814-3109
BY: ANNE SCHNEIDER, ESQ.
and
ROBERT E. DONLAN, ESQ.

FOR WILLIAM DU BOIS:

WILLIAM DU BOIS
3939 Walnut Avenue, #144
Carmichael, California 95608

1 REPRESENTATIVES (CONT.)

2 FOR CALIFORNIA FARM BUREAU FEDERATION:

3 HENRY E. RODEGERDTS, ESQ.
4 2300 River Plaza Drive
5 Sacramento, California 95833

6 FOR LARRY GILBERT:

7 LARRY GILBERT
8 945 East Worthington Road
9 Imperial, California 92251

10 FOR COUNTY OF IMPERIAL:

11 ANTONIO ROSSMANN, ESQ.
12 380 Hayes Street
13 San Francisco, California 94102

14 FOR DEFENDERS OF WILDLIFE:

15 BRENDAN FLETCHER
16 926 J Street, Suite 522
17 Sacramento, California 95814
18 and
19 KIMBERLEY W. DELFINO

20 FOR COLORADO RIVER INDIAN TRIBES:

21 OFFICE OF THE ATTORNEY GENERAL
22 ROUTE 1, Box 23-B
23 Parker, Arizona 85344
24 BY: ERIC SHEPARD, ESQ.
25 and
LOLA RAINEY, ESQ.

FOR SALTON SEA AUTHORITY:

TOM KIRK
78-401 Highway 111, Suite T
La Quinta, California 92253

FOR NATIONAL WILDLIFE FEDERATION:

KEVIN DOYLE
3500 Fifth Avenue, Suite 101
San Diego, California 92103

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPRESENTATIVES (CONT.)

FOR NATIONAL AUDUBON SOCIETY - CALIFORNIA:

LAW OFFICES OF WILLIAM YATES
8002 California Avenue
Fair Oaks, California 95628
BY: WILLIAM YATES, ESQ.
and
KEITH G. WAGNER, ESQ.

FOR PLANNING AND CONSERVATION LEAGUE:

KAREN DOUGLAS
926 J Street, Suite 612
Sacramento, California 95814

----oOo----

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOLTVILLE, CALIFORNIA

MONDAY, APRIL 22, 2002, 10:00 A.M.

---oOo---

CHAIRMAN BAGGETT: Good morning. This is the time and place for the hearing regarding the petition of Imperial Irrigation District and San Diego County Water Authority for a long-term transfer of conserved water. The petition seeks approval of changes in the authorized place of use, point of diversion and purpose of use of the water diverted from the Colorado River under Permit 7743.

If the petition is approved, IID would be authorized to transfer 200,000 acre-feet per year to San Diego County Water Authority and 100,000 acre-feet per year to the Coachella Valley Water District and Metropolitan Water District of Southern California.

I am Art Baggett, Chairman of the State Water Resources Control Board and Hearing Officer for these proceedings. I will be assisted today by Dana Differding, our Staff Counsel, Andy Fecko, Environmental Scientist, and Tom Peltier, Senior Engineering Geologist working on this with me.

I would also like to acknowledge my colleague Pete Silva, who many of you I am sure know, has decided to recuse himself from this hearing given the facts that -- I think you all know Pete, and he felt it would be better if he

1 recused himself. Also, our Executive Officer who many of
2 you know, Celest Cantu, from these parts, has decided it
3 would be better for her to not participate as a staff, our
4 Executive Officer. Generally they do sit in in a lot of
5 hearings and closed sessions, and she also has decided to
6 recuse herself just to avoid any appearance of bias.

7 And Richard Katz, my other colleague, will be attending
8 the hearings in Sacramento tomorrow. He was tied up in
9 other business today.

10 We are here today to hear nonevidentiary policy
11 statements. The evidentiary portion of this hearing will
12 begin tomorrow in Sacramento and go on for many, many days.

13 If you want to make a policy statement, fill out a
14 blue card, hand it to Tom up front here. The Board also
15 accepts written policy statements. If you don't feel like
16 you want to speak today, but want to get a policy statement
17 into us that is fine, anytime. If you have written copies
18 of your policy statement, please hand them to our staff. We
19 will post all written policy statements on our website under
20 the Division of Water Rights section. As the hearing
21 progresses other materials for this hearing will also be
22 posted on that website if you want to follow along from a
23 distance via the Web.

24 Policy statements are not evidence. But they will be
25 part of the administrative record and will be considered by

1 the Board in making its decision. Policy statements are
2 subject to limitations listed in the hearing notice.
3 Persons making policy statements should not attempt to bring
4 in factual evidence, either orally or by introducing the
5 exhibits. Policy statements, we've asked that you limit
6 them to ten minutes or less.

7 A Court Reporter is present to transcribe today's
8 session. Anyone who would like a copy of the transcript
9 must make a separate request directly with the Court
10 Reporter. To assist Esther, if you could please speak into
11 the microphone when you come up, and also if you have a
12 business card that is always helpful in filling out the
13 transcript.

14 With that, any more cards?

15 We will start out with Hank.

16 MR. KUIPER: Good morning. Since there was a lack of
17 blue cards filled out, I'm told that I can have a lot of
18 time.

19 On behalf of the citizens -- my name is Hank Kuiper. I
20 am Chairman of the Imperial County Board of Supervisors. On
21 behalf of the citizens and residents of Imperial County, let
22 me welcome you to our county for the opening today of your
23 formal proceedings on the proposed IID and San Diego
24 long-term water transfer.

25 We in Imperial County are grateful that you have

1 honored our request and other Imperial County participants
2 to conduct this policy here today. We appreciate your
3 efforts to travel to our relatively remote county and spare
4 those farmers and urban dwellers and outdoor enthusiasts,
5 from who you will hear today, the greater effort it would
6 require them to travel to Sacramento. We also hope that by
7 being here for even one day you will take away appreciation
8 of the vibrant economy and environment that we are working
9 to preserve.

10 Imperial County recognizes foremost that it is part of
11 California, both legally and politically. We appreciate the
12 great challenge facing our state to bring its use of
13 Colorado River water to within the budget decreed by
14 Congress and the Supreme Court. We are not responsible for
15 the state's exceeding that budget in the years since the
16 labor and industry of Imperial County of pioneers conceived
17 and established here one of the world's greatest
18 agricultural producing areas.

19 We are willing to collaborate with other units of
20 federal, state and local government to help solve the
21 problem, recognizing as one Court of Appeal justice wrote
22 many years ago that in matters of water Californians share
23 the burden together. Together we need to find a solution
24 that works for California, a solution that also works for
25 Imperial County. I will shortly describe our county's

1 unique interest and role in this proceeding.

2 Beyond our participation here and in the coming weeks
3 in Sacramento, know that we have and will continue to devote
4 special efforts to work with our local water agency, the
5 Imperial Irrigation District. We are mindful of the
6 important role that IID plays in the history and use of
7 water in California. In that respect we are a proud parent
8 because we know that it was the elected leaders of Imperial
9 County's government that took the initiative to create the
10 Imperial Irrigation District and seek changes to the
11 Irrigation District Act that would enable IID to succeed its
12 bold ventures. We have looked and will to continue to look
13 to the IID, not only as our fully grown offspring, but more
14 importantly as our collaborator and lead agency with
15 authority to refine its water transfer proposal before it
16 becomes before your Board for final state approval.

17 Imperial County has a unique role in this proceeding.
18 We represent the government of general jurisdiction
19 embracing all of Imperial Valley inhabitants, its
20 agriculture, its urban development, and its unique natural
21 resources of the Colorado River and the Salton Sea. Our
22 elected Board of Supervisors represents all of the interests
23 that your Board must consider arising in the area from which
24 the water transfer originates. We are charged to protect
25 them all and not elevate one to the disregard of the others.

1 In a certain sense we have most at stake in these
2 hearings because of the breadth of our interests, coupled
3 with the fact that as a proprietary matter we are nominal
4 outsiders to the water transfer and have not yet to date
5 participated in its formulation. While we are working with
6 the principals to the transfer, in the end we rely on your
7 Board to protect the breadth of public interest that we
8 represent.

9 In an economic sense Imperial County represents an
10 agriculture economy that is valid in excess of
11 \$1,000,000,000 annually. That produces an annual tax role
12 to the county and its schools and other local jurisdictions
13 of \$10,000,000 and sales tax revenues of \$47,000,000. More
14 than 11,000 of our inhabitants are engaged in this industry
15 that produces a great share of the nation's annual crop of
16 lettuce, carrots, wheat, asparagus and melons. And for the
17 record you are getting a copy of this, but I want to add, we
18 have cattle. We have an industry and many other commodities
19 that come out of Imperial County.

20 This important resource is also a vulnerable one,
21 depending on agriculture markets and natural conditions.
22 Our unemployment rate can at times exceed 25 percent, more
23 than any other county in California.

24 Before this valley enters into a long-term transfer of
25 water away from this economy, we must be certain that we

1 have comprehended the impacts and found ways to ensure our
2 agriculture continues to thrive. Our economic interest also
3 includes those of recreation. Income to Imperial County
4 from Salton Sea recreation exceeds millions of dollars
5 annually. That economy would evaporate in dollar terms in
6 direct proportion to the evaporation of the Salton Sea as to
7 a lifeless world or worse, a nuisance.

8 As with agriculture, at the Salton Sea we must be
9 certain that we have comprehended the impacts and found ways
10 to ensure that the sea can continue to survive. As a
11 county, we are uniquely situated with respect to the
12 Colorado River. While this Board may be used to thinking of
13 "counties of origin" as those in the Sierra foothills that
14 gave rise to the great rivers of the north, we are quite
15 literally the county of origin for most of California's
16 Colorado River resource. Like those northern counties of
17 origin, we have no other source of water than what is
18 provided by the Colorado River on our eastern border.

19 In a more specific category, we are also the county of
20 origin of the proposed water transfer. We are grateful that
21 the state law and the model water transfer code recognize
22 and protect the county's unique interest, knowing that all
23 of us in this proceeding must ensure that ultimate
24 Imperial/San Diego agreement becomes, literally, a model
25 water transfer. Those who have read our written testimony

1 and environmental commentary to date know our concerns. The
2 viability of our agriculture, the future needs of our urban
3 economy, the health of the Salton Sea and the rest of the
4 county's environment, and above all the still unfulfilled
5 needs and defined and enforce mitigation matters that meet
6 all of our needs beyond those confined to the individual
7 farmer.

8 In agriculture, we are concerned that even as this
9 Board is being asked to evaluate the Imperial/San Diego
10 transfer --

11 Am I going too fast?

12 -- that program and its impacts are not fixed. We are
13 told that the transfer could be accomplished with no
14 permanent fallowing or tens of thousands of acres of
15 fallowing representing in excess of 300,000 feet annually.
16 This year virtually each month has brought a new proposal
17 from or to our constituents on whether or how fallowing
18 should be addressed, but no resolution. We are told that to
19 transfer a desirable because it relies on a willing buyer,
20 willing sellers, and yet that exactly is what Los Angeles
21 told the farmers of the Owens Valley in the 1920s, which
22 resulted in the total and ultimately unnecessary destruction
23 of agriculture there.

24 In the urban sector we see the need to combat our high
25 unemployment with a diversified economy as more people are

1 attracted to the county an its uncrowded lifestyle. We need
2 to ensure that during and after a long-term water transfer
3 sufficient water is reserved for our own reasonable and for
4 foreseeable future needs. With our population expected to
5 double by 2020, we visualize the need for 120,000 feet
6 annually for our domestic needs by that time.

7 At the Salton Sea we obviously identify both an
8 economic and scenic and recreational resource. These
9 qualities deserve protection. But even more fundamentally
10 we cannot allow the Salton Sea to become a nuisance that
11 threatens the very health of our people and liveability in
12 our county. Our air quality experts tell us that without
13 foresight the Salton Sea could become another Owens Lake.
14 But unlike Owens Lake, we cannot afford to wait more than
15 three-fourths of a century to abate a nuisance once
16 created.

17 We also fear adverse air quality from fallowed fields.
18 Even as we assess these concerns under the labels of
19 environmental and economic impact, we need to define,
20 establish and enforce mitigation measures to confine and
21 offset those impacts. We are grateful that draft impact
22 statements prepared by the Bureau of Reclamation and the IID
23 recognize an attempt to quantify those impacts. Our newly
24 engaged experts are attempting to validate or refine those
25 assessments. But to fulfill the mandates of state law we

1 must finish the job of the EIS and EIRs, what they don't do.
2 We must identify the recipients of compensation for
3 so-called third party impacts and ensure that the proper
4 beneficiaries of the transfer, and these we view as a
5 combination of San Diego consumers, in particular, and the
6 people of the United States and California in general
7 provide this compensation.

8 I am going to defer some of the written statements in
9 our written testimony that is given to you on the next. I
10 won't read a couple pages of it. It has to do with
11 protections needed from the State Water Board, in the
12 interest of time.

13 CHAIRMAN BAGGETT: Thank you.

14 MR. KUIPER: In 1998 the Imperial Board of Supervisors
15 responded to the initial transfer proposals by adopting a no
16 non-temporary fallowing policy. That policy was honored in
17 the November 1998 transfer agreement that at the moment is
18 before this Board and also ratified by the Legislature in
19 its 1999 amendment to Section 1011 of the Water Code which
20 recognizes only temporary fallowing as a source of conserved
21 water for transfer.

22 The premise of the county's no fallowing policy has
23 been challenged in two respects. First, to purchase peace
24 from the Metropolitan Water District and Coachella Valley
25 Water District in the QSA. IID agreed to make available

1 transferred water to those directs. Second, in the past
2 four years we have all become aware of unanticipated impacts
3 of the proposed transfer on the Salton Sea. The county
4 continues to overwhelmingly prefer a no permanent fallowing
5 transfer.

6 Unless Water Code Section 1011 is modified again, state
7 law does not authorize more and IID and San Diego cannot
8 voluntarily opt out of that provision. We praise the
9 initial efforts of the IID and San Diego to produce a
10 transfer arising solely from on-farm and system conservation
11 and will argue all of the various arrangements, the IA, the
12 QSA and this transfer, be adjusted to accomplish that result
13 and still maintain the Salton Sea.

14 The county asked that action be required in the
15 Metropolitan and San Diego service areas to wean off any
16 transfer and into desalinization as time progresses.
17 Development of this or any other alternative in the coastal
18 plains should parallel Imperial County's anticipated future
19 needs for both the urban and agricultural sectors. As
20 stated above, we anticipate in the next two decades to
21 double our domestic water needs to 120,000 feet annually.
22 It is reasonable to require that the coastal areas by year
23 2020 produce at least much from desalinization to return
24 water to both meet our growing needs and also future demands
25 for agricultural development in Imperial County.

1 To date the transfer has assumed it will increase in
2 volume over time. When in the reality of our own needs and
3 new technology, reduction over time is compelled.

4 Finally, if despite the best efforts of all, a long
5 supply of water from fallowed Imperial County land becomes
6 preferred, the use of water conserved from fallowing must be
7 conditioned upon the IID first preparing and adopting a
8 program for producing that water and securing the
9 concurrence of Imperial County in that program. Our
10 concurrence is necessary to ensure that all the interests we
11 represent in this valley are protected. Before implementing
12 such a program, it must be subject to a second tier
13 environmental assessment that follows on the successful
14 completion of the water transfer assessment and will be
15 conducting. Compliance with or modification of Water Code
16 1011 with the concurrence of Imperial County must be
17 achieved. Salton Sea's stability must be assured. And
18 economic losses to local government and districts, embracing
19 both lost tax revenues and social services cost must be
20 compensated.

21 This Board's requirement that any fallowing base
22 transfer be preceded by preparation and adoption of a
23 systemic program that addresses economic environmental
24 impacts meriting the concurrence of Imperial County may well
25 afford that one legal and institutional means of securing

1 timely approval of the long-term Imperial/San Diego
2 transfer.

3 Respectfully submitted, Hank Kuiper, Chairman of the
4 Board of Supervisors.

5 CHAIRMAN BAGGETT: Thank you.

6 And we've got a copy for the record.

7 Thank you.

8 Larry Grogan.

9 MR. GROGAN: When I look at the yellow pad, it reminds
10 me of a story that when Abraham Lincoln was giving his
11 Gettysburg Address he followed Edward Everett to give a guy
12 excellent orientation for two hours. I have two pages and,
13 Hank, this is no Gettysburg Address.

14 Thank you.

15 I have comments for the -- our comments I would like to
16 enter into the record as far as comments on EIR/EIS. But
17 let's go forward to when this Board made its findings in '84
18 and '88 and its Order 88-20 to IID to develop and implement
19 a meaningful water conservation program, it was in truth
20 pronouncing a death sentence to the Salton Sea. When this
21 Board further concluded that in Decision 1600 that a
22 transfer of conserved water could satisfy the future needs
23 of Southern California, thus set in motion the need as well
24 as the agreement.

25 We now are, in the Imperial Valley, faced with

1 implementing your programs which really in sense will kill
2 the Salton Sea. We are faced with sending our future to the
3 coast. It is not just once as we did with conserved water
4 to MWD, but now we must send additional conserved water to
5 San Diego. Who will be next in ten or twenty years?

6 There was no moratorium on growth along the coast, only
7 an every increasing need. We can often identify those who
8 covet our water from the east and from the west. But the
9 reality is those with self-serving interests from within
10 the valley that present our greatest threats.

11 The clouds of internal water wars are gathering as we
12 speak to dismantle the IID, to feel the greed of some to
13 mask the need of unchecked growth of the coast. Now we hear
14 the cry of "Save Us" from an unintended consequence of many
15 follies of their own folly in wanting to transfer water for
16 profit.

17 In your future decisions I ask that you consider the
18 desire of these unearned profits of a few versus the lives
19 of 140,000 people. It is to that purpose that I
20 respectfully request that all tail and wastewater going to
21 the Salton Sea be declared reasonable and beneficial use,
22 thus saving our environment as well as our way of life.
23 Acknowledge and assume the responsibility for mitigation and
24 the effects of your orders and on the Salton Sea, including
25 forced conservation of transferred water to the coast,

1 provide protection and immunity to the Imperial Valley from
2 further range on your water from outside interests,
3 consider third-party impacts and environmental justice along
4 with equal importance of the Salton Sea in all your future
5 decisions.

6 Thank you.

7 CHAIRMAN BAGGETT: Thank you.

8 Cathy Kennerson, the Chamber of Commerce.

9 MS. KENNERSON: Cathy Kennerson, the CEO of the El
10 Centro Chamber of Commerce and Visitors Bureau.

11 After careful review of the four alternatives contained
12 in the Draft EIR/EIS and related habitat conservation plan,
13 the El Centro Chamber of Commerce and Visitors Bureau Board
14 of Directors adopted the following positions statement at
15 the meeting on March 18, 2002:

16 The Chamber supports in principle the transfer of
17 conserved water from the Imperial Irrigation District to the
18 coastal plain as integral component of California's Four
19 Point Four Plan. It is imperative that all third-party
20 impacts identified in the EIR/EIS be fully mitigated in the
21 final agreement to transfer water. Our support is also
22 conditioned on the restoration of Salton Sea being fully
23 funded and implemented by the State of California and the
24 federal government.

25 While we recognize the linkage that exists between

1 Salton Sea restoration and the proposed ag to urban water
2 transfer, we do not believe that the economic future of the
3 region and indeed the continued viability of the Imperial
4 Valley should be held hostage to the fate of the Salton
5 Sea.

6 For these reasons we call on the State of California
7 and the United States Government to commit such resources as
8 may be necessary to save the Salton Sea and to allow the
9 scheduled water transfers to proceed without this particular
10 environmental and financial encumbrance. The chamber is
11 generally inclined to support the restoration of the Salton
12 Sea if in the view of the state and federal officials such
13 restoration is scientifically and financially feasible. But
14 Imperial Valley cannot reasonably be expected to shoulder
15 this responsibility and the water transfer should not be
16 delayed while an appropriate environmental remedy for the
17 Salton Sea is being formulated.

18 CHAIRMAN BAGGETT: Thank you.

19 Don Cox.

20 MR. COX: Good morning. This thing is getting to be
21 pretty sticky. We met with -- a group of farmers met with
22 San Diego last week. And the message that came out of that
23 meeting was that they did not really want to transfer any
24 water that was going to damage the Sea, which means that
25 there is only one way that I think that I know how to do

1 that, and that is with fallowed water. I think this had to
2 come out of the recent EIR and looking at that it gave us
3 two options. HCP-1 which was building a fish -- letting the
4 Sea die, reducing the flow to the Sea and letting the Sea
5 die over a period of time, putting a fish hatchery in and
6 building the lakes and the nesting islands and all those
7 things.

8 And it didn't really address the death of the sports
9 fishery and the liabilities that are going to go with that
10 or the property owners. I think anybody looking at that
11 thing doesn't want to get tangled up with all those
12 liabilities unless there is some indemnification that can go
13 with it.

14 If fallowing is going to be the method of generating
15 water for transfer, I think it has to be looked at
16 completely different than the conservation. Conservation,
17 you are generating new water and that water is being
18 transferred, and you are not affecting the current use of
19 water, and that is the way the IID has been moving with this
20 thing. In the last three or four years we thought that we
21 were going to be doing a conservation and that it really
22 wasn't going to affect the community that much.

23 And so if fallowing is looked at, I think it has to be
24 looked at in a different vein. To me, I don't think you
25 can transfer as much water out of the community if you

1 generate it with fallowing as you do with conservation.
2 Because you are depleting the resource and you can mitigate
3 so many jobs and economic loss and economic activity, but I
4 think at some point it gets pretty hard to do.

5 So my feeling is that if we are going to try to
6 transfer some water through fallowing, that you're probably
7 going to have to start out smaller and try it and see how it
8 works. And it should be of a shorter term or if it doesn't
9 work, that you can stop and cut your losses.

10 Another point I want to bring up is the restoration
11 program. And I sat on the Salton Sea, JTH for about eight
12 years and it kept pretty, kept up pretty close from what
13 they are doing. I am not sure why they haven't come out
14 with a program because I think they have all the figures, at
15 least I think I know pretty much within a all-part failure
16 of what it would cost. It looks like the big problem is if
17 you are going to save the Sea and do it practically and
18 economically, that you are going to have to keep the
19 elevation pretty close to where it is now, and that is going
20 to take some water.

21 You need about another, somewhere between 60 and
22 100,000 acre-feet of water to remove the salts. So it is
23 going to take more water, but I think you can do that for
24 \$20,000,000 a year or less, which is really a fairly easy
25 number. The district can't handle that. But I think the

1 federal government and the state agency could, if they want
2 to. Somebody has to get and decide what to do with the Sea,
3 just how important it is. I don't see anybody taking that
4 job on.

5 I think -- I was surprised the State Water Resources
6 Control Board didn't. I can understand why they don't want
7 to, but I think that falls in your job description. The
8 only other people that I see that should get involved is the
9 Department of Interior. EPA is within the Department of the
10 Interior. But I don't see how you expect anybody to make a
11 reasonable decision out there without knowing where that Sea
12 is going to go and just how important it is. The IID can't
13 decide whether to save the Sea or not. Don't have the money
14 for one thing, but it is not our job for the other.

15 I have mixed emotions about the Sea. I worry more
16 about the liabilities and the problems it presents to the
17 IID than the aesthetics of saving the Sea. I can see a lot
18 of advantages to doing it. But as a farmer and a landowner
19 down here, I am more concerned on the liability side of
20 things. I want to make sure we don't get into some kind of
21 economic trap that is going to bankrupt us. In today's
22 society in this country when you start dealing with
23 environmental problems, you got a tiger by the tail.

24 The Colorado River is in terrible shape. Just went to
25 a meeting the other day and the storage capacity is down to

1 72 percent of capacity, which means we have used up about
2 half of the usable storage. And this year they are looking
3 at a flow of somewhere around 40 percent of normal, and that
4 could bring us down below 60 percent of capacity. And
5 something is going to happen. We can't just keep pulling
6 that down without implementing some kind of program.

7 So if this deal, transfer with San Diego, falls
8 through, I think it is imperative that the IID look at an
9 alternative program. And it is my suggestion that the IID
10 should look at short-term fallowing program of about a
11 hundred thousand acre-feet of water. This would be
12 fallowing because you can do that real fast and you can undo
13 it real fast. There is no long-term obligations with that.
14 But it will help us politically and it will get some water
15 to the coast. It would put some money in our economy. It
16 would give the valley a chance to look at fallowing on a
17 temporary basis, and it would leave the options open for
18 saving the Sea. It would be a big step forward.

19 Thank you.

20 CHAIRMAN BAGGETT: Thank you, Don.

21 It is an interesting dilemma. We have nine Regional
22 Boards, as most of you are aware. So the Regional Board is
23 actually a party to our own water rights proceeding.
24 Because the Regional Boards -- we have that water quality
25 portion of our system, and it is unique to the western

1 states the way we do as a state board have the water right
2 authority.

3 So you're right, it's an interesting process that we
4 are embarking on here, one that we normally -- doesn't quite
5 work this way.

6 George Ray.

7 MR. RAY: I am George Ray. I reside at 605 East Beal
8 Road, Niland, California, and I am a farmer.

9 The proposed water transfer before you today is not,
10 and I repeat, is not strictly speaking a voluntary agreement
11 negotiated by willing buyer and willing seller. It is a
12 consequence of many powerful outside sources staking claims
13 to IID's Colorado River water rights. Imperial Valley
14 residents do not have the votes or the financial resources
15 to match these outside forces. Many farmers feel the
16 proposed water transfer is, at best, the lesser of many
17 evils.

18 The State Water Resources Control Board is only one of
19 the players to this high stakes, very serious game. The
20 Board's Decision 1600 in '84 and Order 88-20 in 1988
21 regarding reasonable and beneficial use played a very
22 important role, setting in motion the sequence of events
23 that bring us here today. Three major events have occurred
24 since the Board's fateful decision in 1984. Under duress,
25 IID negotiated in good faith to conserve water and transfer

1 conserved water to the Metropolitan Water District. And the
2 State Resource Control Board approved that transfer.

3 Under duress IID negotiated an agreement with San Diego
4 County Water Authority in good faith to conserve water and
5 transfer water to the San Diego County Water Authority, and
6 IID is bringing this water transfer proposal to you. Under
7 duress IID negotiated Quantification Settlement Agreement
8 with the Bureau of Recollection, Coachella Valley District,
9 Metropolitan Water District and others. And that remains a
10 work in progress.

11 I and many other farmers believe that Imperial
12 Irrigation Board of Directors relied too heavily during the
13 negotiation process on paid professionals who possessed
14 little understanding of the needs of farmers or the desire
15 of farmers. I and many farmers believe that the Imperial
16 Irrigation Board of Directors and paid professionals failed
17 to adequately involve enough farmers and failed to involve
18 farmers early enough in the decision making process. This
19 omission resulted in the flawed proposal you have before you
20 today.

21 For the most part farmers were excluded from the
22 negotiating process and the decision making process. It is
23 farmers who stand to lose the use of this water. It is
24 farmers who must bear most of the negotiating cost relating
25 to the water transfer and the cost of conserving water. It

1 is farmers who are at risk to the demands of environmental
2 interest and landowners around the Salton Sea. Working with
3 them, the constraints of the proposed transfer plan
4 representatives of Imperial County Farm Bureau, Imperial
5 County Vegetable Growers Association and others have put
6 together a water conservation plan that appears to have
7 considerable support among farmers in the IID service area.
8 This proposal, however, will require modification in the
9 proposed water transfer agreement. To date IID's Board
10 of Directors have not publicly adopted a position on this
11 proposal.

12 The water transfer agreement with Metropolitan Water
13 District involving about 100,000 acre-feet of water is
14 already in place and operational. The proposed water
15 transfer with San Diego County Water Authority, because of
16 the Quantification Settlement Agreement, may involve up to
17 300,000 acre-feet of transferred water. One of the
18 consequences of these transfers is the accelerated demise of
19 the Salton Sea fishery. This fishery is an exotic fishery
20 based on tilapia, a fish from Africa and fish and other
21 organisms from the Sea of Cortez. By most environmental
22 standards this exact fishery should not be preserved, yet it
23 has many supporters who claim to be environmentalists.

24 I am concerned that after having signed these
25 agreements and having transferred up to approximately

1 400,000 acre-feet of water, forced in part by the State
2 principle, the State Water Regional Control Board at some
3 future date reverse itself and decide the irrigation
4 tailwater, the canals spills are after all reasonable and
5 beneficial because they have been a benefit to the Salton
6 Sea's ecosystem.

7 Even if the Regional Quality Control Board does not
8 give us blessings to such action, farmers are at risk
9 because other more powerful forces, such as environmental
10 groups, federal agencies and the courts, may do so. At that
11 point Imperial Valley farmers will be unable to recover the
12 use of the water lost through these water transfers.
13 Imperial Valley farmers will be forced to give up additional
14 water and farmers in the community will suffer additional
15 economic harm.

16 Imperial Valley farmers should not be expected to both
17 transfer water to coastal cities and additionally dedicate
18 valuable water to the Salton Sea. Please clarify your
19 Board's decision on this matter of reasonable and beneficial
20 use for Salton Sea. The environmental mitigation proposal
21 relating to the Salton Sea are seriously flawed, open-ended
22 and too costly. Unless mitigation demands are scaled back
23 or someone else picks up the cost, the transfer should not
24 occur.

25 I am resigned to the fact that additional water

1 transfer between one or more coastal communities will likely
2 occur, but the proposed transfer agreement between IID and
3 the San Diego County Water Authority must be modified before
4 it moves forward. IID's proposed water conservation plan to
5 facilitate this transfer is unacceptable. If the allegation
6 plans go forward it will be challenged in the courts and
7 transferred delayed. IID's conservation plan must be
8 modified along the lines proposed by farmers. If water
9 transfers occur, it is farmers who must give up this water.

10 Thank you.

11 CHAIRMAN BAGGETT: Thank you.

12 Michael Cohen.

13 MR. COHEN: Thank you.

14 My name is Michael Cohen. I am a Senior Associate with
15 the Pacific Institute. I will briefly summarize my remarks,
16 but I have left you with a copy of my full written
17 statement.

18 Let me start by saying that the Pacific Institute
19 recognizes the need for the proposed water transfer. We
20 also support the general objective of reducing California
21 reliance on Colorado River water. In the long run reducing
22 California's reliance on the river can free up work for
23 other uses, including meeting environmental needs. However,
24 we do not believe that these long-term benefits should come
25 at the cost of losing existing environmental resources.

1 I predict that the State Board will find itself in a
2 very difficult position at the end of this hearing. Not a
3 surprise. On the one hand the water transfers, a critical
4 element to the Quantification Settlement Agreement. If the
5 transfer is not approved, the QSA and possibly California's
6 interim surplus water from the Colorado River could fade
7 away.

8 On the other hand, the water transfer will very clearly
9 have significant and unreasonable impacts on fish and
10 wildlife. These impacts include the greatly accelerated
11 demise of its fishery by 40 years or more. More than
12 100,000,000 fish are estimated to live in the Salton Sea,
13 making it one the of most abundant fisheries in the world.
14 This fishery is particularly important because it supports
15 tens of thousands of fish eating birds, including large
16 populations of special status species, such as the white
17 pelican, the brown pelican and the black skimmer.

18 The loss of this rich fishery, especially in the light
19 of the loss of more than 90 percent of California's
20 wetlands, would have significant impacts on these birds.
21 Neither IID nor San Diego has made any real effort to
22 address the environmental impacts of the transfer. Rather
23 than working with stakeholders to identify workable mutually
24 agreeable solutions, the parties have repeatedly sought to
25 change environmental laws rather to find solutions within

1 those laws.

2 Indeed, their behavior can be seen as a kind of
3 brinksmanship daring the State of California to disapprove
4 the transfer and suffer the loss of hundreds of thousands of
5 acre-feet of Colorado River water. This is not behavior
6 that should be rewarded. Approving the transfer would
7 establish a terrible precedent. California voters have made
8 very clear their support for strong environmental
9 protections and the preservation of ecological resources.

10 The Salton Sea is no different and should not be
11 sacrificed at the alter of political expediency. The
12 transfer parties have had years to develop a reasonable
13 solution. Instead they waited until the last minute to seek
14 approval for a deal made behind closed doors, excluding the
15 farmers themselves and environmental interests, a deal that
16 ignored environmental impacts and the interests of a broad
17 range of stakeholders.

18 But simply denying the proposed transfer is not an
19 acceptable option either, given the potential for
20 dramatically reducing California's supply of Colorado River
21 water. Instead I encourage the State Board to issue a
22 temporary and conditional approval of the transfer along the
23 lines of the suggestion of Mr. Cox earlier. This temporary
24 conditional approval would be contingent upon the parties
25 enforceable commitment to implement the following elements:

1 One is to minimize environmental impacts. The water
2 transfer during the period of approval can only be generated
3 by the voluntary temporary fallowing of land.

4 A plan to invest a percentage of the transfer revenues
5 into a community development fund to mitigate for the
6 socioeconomic impacts here in the Imperial Valley.

7 The third condition would be that the plan identify and
8 address the growth inducing impacts in San Diego, the point
9 of delivery.

10 Fourth is that a plan that incorporates a real plan to
11 reduce the concentration of selenium in drainage waters.

12 And the fifth element is that it be contingent on the
13 development and implementation of a long-term habitat
14 preservation and dust abatement plan for the Salton Sea.

15 So my recommendation is that the State Board issue a
16 temporary conditional approval that would expire December
17 31st, 2007. Basically five years from the term -- five
18 years from the date of QSA deadline. If by that date each
19 of the elements I just listed were implemented
20 satisfactorily, the State Board would grant unconditional
21 approval of the proposed action. I think I see several
22 benefits of such a temporary conditional approval.

23 It would minimize the environmental impacts of the
24 transfer by providing for a method that would have limited
25 impact on influence to the Salton Sea. It would also deny

1 the long-term supply reliability required to approve large
2 new development in the San Diego service area.
3 Additionally, the five-year interim period would afford a
4 reasonable amount of time to develop a long-term habitat
5 preservation and dust abatement plan for the Salton Sea
6 without the looming deadline of this year's deadline for the
7 QSA signing.

8 By making final approval of the transfer contingent
9 upon the implementation of such a plan, the transfer parties
10 would be encouraged to direct their efforts toward securing
11 the authorization and appropriations necessary. This
12 approach would enable California to meet the terms of the
13 Interim Surplus Guidelines while affording time to develop
14 reasonable mitigation.

15 Thank you.

16 CHAIRMAN BAGGETT: Thank you.

17 Fred Cagle.

18 MR. CAGLE: I am Fred Cagle speaking for Audubon
19 California. The fundamental purpose of agriculture is to
20 shift the ecological balance so as to favor humans relative
21 to other species in the production of food and physical
22 protection.

23 The Salton Sea is a very complex ecosystem, which over
24 the past 50 years has been stressed in support of
25 agriculture. While most ecosystems are fairly resilient to

1 change, and if disturbed quickly compensate for that change,
2 in the case of the Salton Sea we all can agree that it is on
3 the age. It is on the very age of stability for lots of
4 reasons, for reasons of air quality, water quality and
5 salinity.

6 It would appear now that we are under the gun to shift
7 the ecological balance in favor of the urban water needs to
8 the continued detriment of the needs of nature and
9 agriculture. That this system is on the edge can be
10 illustrated by a recent article published by the National
11 Institute of Health and Environmental Health Perspectives,
12 where they title Dust in the Wind, which uses a go-cart
13 model of NASA to look at the ten largest sources of dust on
14 the face of the earth. They were Patigonia, the Alto Plano,
15 the Zaire region, the Sahara, the Mibian Desert lands, Indus
16 Valley, Takla Makn Desert, the Gobi Desert, the Lake Erie
17 Basin and the Salton Sea. This a recent publication, 2001.

18 This is based on dust particle sizes ranging from 0.1
19 to 6.0 microns in radius. Particles as large as 10 microns
20 can deposit in the lung airways and cause bronchial airway
21 constriction. Particles less than 2.5 microns are now
22 believed to have the greatest effects on human health.

23 Imperial County currently has hospital admission
24 discharge rates for children two to .4 point higher than any
25 other county in California. While asthma is a complex

1 disease, air quality has a definite effect on any child with
2 impaired lung function.

3 Decrease in the size of the Salton Sea may expose many
4 miles of seabed to these same winds. We feel that the
5 EIS/EIR does not address this potential threat to both human
6 health and animal health. Avian, birds have lungs, too, and
7 we are very unclear what the effect will be on the birds in
8 this area.

9 Inflow of nutrients into the Salton Sea, especially
10 phosphorus, has resulted in the development of a
11 hyperutrophic sea with very high productivity. This
12 productivity has produced a fishery which, while world
13 class, according to several papers published recently, in
14 the Journal of Ecological Modeling, produce so many fish
15 that like an overcrowded aquarium, produces fish which are
16 unhealthy and provide a high number of sick fish which are
17 easily caught by fish eating birds. Most of the tilapia or
18 a large majority are within an area of .39 square miles of
19 the mouth of the Alamo and New Rivers. This is the density,
20 is four to ten times higher than any African tropical lake.

21 This just means that you have a larger number of sick
22 fish which are easily caught by pelican. We are very
23 concerned that this will increase the amount of die-offs if
24 we keep this same high level of fishery.

25 While the environmental community would like to put the

1 ecological balance in favor of nature, in reality a
2 sustainable system calls for a balance between everybody.
3 It is my feeling that the Salton Sea restoration projects
4 were beginning to call for a ecosystem health approach, but
5 it is not the current situation in the Salton Sea watershed.

6 We are very concerned that the rules and decisions that
7 we are making today, while only pointing to a single
8 transfer of water, will have profound effects on habitat in
9 the position of nature in the ever growing contest between
10 urban, ag and nature water users. Using Department of Water
11 Resources' estimates, the San Francisco Chronicle predicted
12 that by 2020 that the current water system will fall short
13 of California's needs by as much as 4.2 million acre-feet in
14 a good year and nearly twice that in a drought year.

15 One can see the handwriting on the wall, as several
16 people have mentioned earlier, in the water wars of the
17 future and their effects on the habitats, and from our
18 standpoint on birds. As we have lost 92 percent of wetlands
19 in California, and many of these were refueling stops -- you
20 know, birds are like airplanes. They can fly for so far and
21 then they fall out of the sky if they don't get refueled.
22 As a person, me, who has been involved in the restoration of
23 a 20-acre model marsh system, I understand very well that we
24 do a very poor job of restoration because our knowledge of
25 wetland dynamics is very rudimentary. So we have to be very

1 careful when we talk about mitigation of wetlands.

2 The Salton Sea has been well documented as a refueling
3 point for millions of birds and breeding grounds for a
4 hundred species. As the changes in the Sea not only affect
5 the covered species, which are the only species covered in
6 the EIS/EIR, all alien life that use the Sea, the 350
7 species, are very poorly covered in the EIS/EIR. Christmas
8 bird counts for the white faced ibis have increased
9 dramatically recently. If this is any indication of need
10 for habitat over the next 75 years, we need to preserve and
11 increase available habitat for the millions of birds that
12 move through our area each year.

13 Hanna Ret, a philosopher, once said we're living in one
14 of those odd in-between periods which sometimes insert
15 themselves into historical times. An interval in time which
16 is altogether determined by things that are no longer and by
17 things that are not yet.

18 In history these intervals have shown more than once
19 that they contain a moment of truth. I suggest that our
20 decisions today have a profound affect on our relationship
21 with the avian community and on our decisions about how we
22 balance the needs of water between nature, urban and
23 agricultural have indeed arrived at a moment of truth. We
24 would also like to suggest that a temporary system, as
25 proposed by Mr. Cox, be implemented.

1 Thank you.

2 CHAIRMAN BAGGETT: Thank you.

3 Larry Bratton, Imperial Valley United.

4 MR. BRATTON: Good afternoon. My name is Larry
5 Bratton. I am co-chair of the Imperial Valley United,
6 a local group here that is compiled of many different
7 people.

8 Imperial Valley and its board in diverse proliferation
9 of agriculture and business and local government dedicated
10 to the preservation of the protection of the area's rights.
11 We remain committed to foregoing a reasonable solution to
12 meet California's long-term water needs, but not at the
13 expense of our economy or our way of life.

14 We support in concept agriculture and urban water
15 transfer which are based on mutual benefit and economic
16 reciprocity, but we will oppose any agreement that saddles
17 our water users, citizens an enormous cost to saving the
18 Salton Sea. In light of the staggering price associated
19 with the Salton Sea's mitigation as identified in the
20 EIR document, we believe the 1998 water transfer agreement
21 between Imperial Irrigation District and the San Diego Water
22 Authority must be renegotiated. Further we call on the
23 state, federal government to assume all financial
24 environmental responsibilities for the Salton Sea, holding
25 the IID harmless in perpetuity and providing a legal

1 framework for completion of its work conservation and
2 transfer plans without compromising either its historical
3 standings or its water rights.

4 As we have since 1999, when Imperial Valley United was
5 formed to provide a regional voice from among many competing
6 voices we believe a viable transfer agreement between IID
7 and San Diego Water Authority can only be achieved through
8 open dialogue, ongoing discourse, a public process of
9 advice and consent. The IID should be an active participant
10 in that process, but its most important charge must be to
11 ensure that the Imperial Valley does not become a victim of
12 it.

13 Thank you very much.

14 CHAIRMAN BAGGETT: Thank you.

15 Heidi Kuhn from Imperial County Farm Bureau.

16 MS. KUHN: Good morning, Member of the Board, and
17 welcome to the Imperial Valley.

18 CHAIRMAN BAGGETT: Thank you.

19 MS. KUHN: My name is Heidi Kuhn. I'm the first vice
20 president of the Imperial County Farm Bureau. We are
21 pleased that you have chosen to have this hearing today in
22 the Imperial Valley so that you can hear firsthand farmers'
23 commitment to being good water stewards and being part of a
24 regional water solution. We also hope that the comments
25 that you hear today will help you understand our grave

1 concerns with the current structure of the proposed water
2 conservation and transfer program between IID and the San
3 Diego County Water Authority. The Imperial County Farm
4 Bureau has designed and proposed a conservation framework of
5 its work that is supported by a vast majority of water users
6 in this county. And you will hear more about this proposal
7 during your hearings tomorrow in Sacramento.

8 The Imperial County Farm Bureau has a membership of
9 880, and you probably know that agriculture produces direct
10 revenue of \$1,000,000,000 annually in this County. Of
11 course, that figure does include the huge amount of jobs and
12 economic activity that is directly and indirectly tied to
13 the agriculture industry here beyond just the direct
14 agriculture output.

15 You probably also know a little about the rich history
16 of vision, innovation and incredible hard work, deprivation
17 and dedication of our forefathers that has resulted in one
18 of the most water efficient and cutting edge irrigation
19 systems in the world. Today Imperial Valley farmers are
20 willing to continue our hard work and innovation in
21 conserving more water for Southern California. But we
22 cannot be expected to do so at the cost of economic or
23 environmental devastation to our valley, our community and
24 our way of life.

25 The farm community here has waited several years for a

1 conservation plan to be put forth by the IID Board of
2 Directors. What we have now finally received from the IID
3 is not specific or concrete enough to guarantee that the
4 conservation goals of the transfer program can even be met.
5 The viability under this plan to fulfill our contractual
6 obligations for transferring water is in serious doubt, and
7 the resulting penalties place our basic water rights in
8 serious doubt as well.

9 The incentive under the IID plan will be to conduct the
10 lowest cost method of conservation, fallowing or simply
11 farming less, because landowners will be paid to reduce
12 their diversions without any conditions being placed on
13 their water use efficiency. If our conservation efforts are
14 not increasing our water use efficiency, once again, our
15 water rights are in extreme jeopardy.

16 The biggest impediment to the transfer agreement as it
17 is currently structured is that it does not protect
18 landowners or farmers from court orders or lawsuits related
19 to environmental impacts. While the contract between IID
20 and San Diego allows termination of the agreement if
21 environmental mitigation costs reach certain levels, there
22 is not a known provision to protect the IID and its
23 landowners against impacts after they occur. While we have
24 been told repeatedly since early in the transfer process
25 that we would have a no-surprises deal, that all claims and

1 mitigation costs would be discovered before the final
2 approval of the contract, now it appears that the some
3 situations are not covered under the legal assurances
4 contained in the transfer agreement.

5 It is imperative that the IID and its landowners
6 actually be indemnified against any order or judgment to
7 mitigate or pay for damages that exceed the amount specified
8 in the contract, if such damages result from our good faith
9 effort to fulfill our contractual obligations. It is
10 essential that we be protected from surprises that could
11 materially change the deal after it has been approved, and
12 without such indemnification I, as a farmer and landowner,
13 would be completely opposed to IID's participation in the
14 transfer.

15 The membership of the Imperial County Farm Bureau has
16 many other grave concerns with the transfer program as it is
17 structured. These include:

18 One, participation is not voluntary. Because
19 nonparticipants are bound by the same allocation and payback
20 requirements as the participants only they receive no
21 compensation. We strongly object to any landowner's right
22 to receive water being diminished without fair
23 compensation.

24 The plan imposes a permanent restrictive water
25 allocation program on all farms that is unjust and unfair.

1 It rewards past inefficiency and penalizes any past
2 conservation efforts.

3 Three, farmers will be forced to under use their water
4 in order to avoid heavy payback penalties. This will result
5 in unused water being sent to junior right holders for free
6 and result in under production in our own community.

7 Four, the plan contains a no following clause that is
8 not adequately defined.

9 Five, since the contract is subject to abrupt,
10 premature termination, it is essential that conservation
11 measures be financed on a pay-as-you-go basis. The current
12 contract with no upfront capital infusions or financing
13 requires IID or landowners to go into considerable debt with
14 no guarantees of repayment in the deal is terminated early.

15 Six, there are serious hazards presented in the current
16 pricing formula, and its complicated nature makes it
17 impossible for everyone but a trained economist to
18 understand. Land owners must be clear about the potential
19 risks and rewards before they sign up.

20 And seventh, the primary contract terms should be
21 limited to the length of San Diego's wheeling agreement. We
22 must receive some assurances that another canal will not be
23 promoted or built by our water partners unless it is in the
24 interest of all parties.

25 Finally, farmlandowners and large water users are an

1 extremely small percentage of the total registered voters of
2 the IID. The IID serves many more electricity customers
3 than water customers. In addition, many landowners live
4 outside of the IID service area. Therefore, the directors
5 of the IID board, while they don't necessarily don't want to
6 do harm to the farmers of the Imperial Valley, face
7 overwhelming political and structural impediments to
8 crafting a conservation and transfer program that meets the
9 needs of the farmers and creates the necessary amount of
10 water conservation.

11 Therefore, the Imperial County Farm Bureau strongly
12 urges you, the Members of the Regional Resources Control
13 board, to seriously consider the concerns of the farming
14 community with the water transfers plan as currently
15 structured. After all, it is 435 farmers in this community
16 who are being asked to conserve water for 3,000,000 people
17 on the coast. While we are supportive of a water transfer
18 going forward, we strongly urge you to condition our
19 approval upon resolution of main issues we have outlined
20 today.

21 Thank you very much for our consideration.

22 CHAIRMAN BAGGETT: Thank you.

23 Toni Holtz, if necessary it says. Must be necessary.

24 MS. HOLTZ: Good morning. My name is Toni Holtz. I
25 reside in Imperial. My husband is a farmer. I have heard

1 from a lot of various entities today and a lot of farmers I
2 haven't heard from, so I am speaking for at least myself and
3 my husband and maybe some of them.

4 I am here today as a farmer and involved with the Farm
5 Bureau and a lot of other things. I am here today as a
6 farmer, a farmer's wife who is very concerned about the
7 future of our water. A few years ago my son left for
8 college at Cal Poly. What started out as a guilt trip from
9 a mom, I said to him that I couldn't promise him that in
10 five years when he got out of college we'd have a ranch for
11 him to farm.

12 Well, now as we go forward with this water transfer,
13 what started out as a guilt trip to my son to keep him in
14 college may end up being a reality. I think the thing that
15 upsets me the most is I have lived in this community now for
16 25 years. There's been a lot of issues that have come up
17 that have divided this community, but I've never seen
18 anything divide this community like the water transfer.
19 That bothers me more than anything.

20 This used to be a community that cared about each
21 other. I think it is still there. But divided we are going
22 to be conquered, and I don't want to see that happen to
23 anybody in this community. You shake hands with people when
24 you walk in this room, yet you know they are sitting on the
25 opposite side of an issue, and it is hard when you live in a

1 community of a hundred thousand people and now you are
2 sitting on one side of the fence or the other.

3 This community started with ag, and I think it can
4 continue with ag. I think there is room for other growths
5 in this community, and there is a way to put it all
6 together. But we as Imperial County have to stand united to
7 make that happen. There's been lots of questions and lots
8 of things brought up about where the water really belongs
9 and who it is owned by. As I understand it, water is held
10 in trust for landowners by the IID, and has been in several
11 court cases through the last 30 years that have talked about
12 water rights.

13 One is, of course, that thing that happened here in the
14 '70s just before I got here regarding the 160-acre
15 limitation that went all the way to the Supreme Court, that
16 brought this community together and ensured a future. One
17 of the things that helped ensure a future of agriculture
18 here. There is the Superior Court case here, and I don't
19 know if it was here in Imperial County, that said that the
20 farmers put the water to beneficial and reasonable use,
21 which is important to us in the farming community. And
22 recently in the State of California, in the Supreme Court
23 there was a decision that was made concerning farmers in the
24 high desert that said that farmers don't have to give up
25 their water to urban areas and that went straight to the

1 California Supreme Court. I understand I am paraphrasing
2 here, but I think I got my facts pretty close to right.

3 My purpose of bringing this up is to let it be known
4 that we farmers have rights, too. And you go through all
5 these processes, and I don't hear a lot about us. It
6 doesn't seem like we have been included in negotiations up
7 to this point very much. And it is not right that the
8 decisions made that affect our future as well as the future
9 of Imperial County are being made without appropriate input
10 from the group that has the most to lose. This ag resource
11 that we have, long-term effects of this transfer, things
12 like that, have not been adequately studied, in my opinion.

13 And it seems that most of the people involved in these
14 transfers want to sure of the benefits and I don't see a
15 whole lot of people out there standing in line to assume the
16 risks with us, of what it is going to do to our ranches of
17 what less water is going to happen to us. It can't work
18 that way if ag is to remain a viable industry here in
19 Imperial County.

20 Personally, I am not opposed to the transfer, but let
21 us farmers who have the most -- the most affected, decide
22 how it will work. Let us be a part of that process.
23 Historically here in Imperial County and throughout the
24 United States and all over the world, farmers have made
25 prudent decisions for the benefit of the land and for the

1 community that they live in. All we are asking is for a
2 chance to do that again.

3 When you are just sitting on our side of the fence, you
4 feel like the wicked stepchildren sitting out here that
5 don't have a voice, that all these other people are talking
6 about what goes to our future, yet we are not involved in
7 that process. I think that most of the people in the farm
8 community that I know know that the Salton Sea is
9 important, and we are not saying we don't want to see the
10 Salton Sea here in the future. I don't think that is
11 anything as Mr. Cox had said. But we have to have our costs
12 covered, and we can't afford -- there is not a lot of profit
13 left in farming right now in spite of what you may read or
14 see. I think most of the farmers in this room will agree
15 with me on that. We can't afford to pay for unproven
16 conservation methods and we can't afford to get sued by
17 everybody and their brother and continue to farm in this
18 community.

19 Like I said, I want a future for me and my kids here.
20 In order to do that we have to be protected. And I would
21 like to close in saying that I looked on the Internet this
22 morning, and there is a quote that is attributed to Mark
23 Twain in Life magazine, August 9th of 1883. I quote:
24 "Whiskey is for drinking. Water is for fighting over." And
25 I don't want to see this valley end up that way.

1 Thank you.

2 CHAIRMAN BAGGETT: Thank you.

3 One final card anybody else out there?

4 James Davenport, State of Nevada.

5 MR. DAVENPORT: Good Morning. My name is Jim
6 Davenport. I am the Chief of the Water Division of the
7 Colorado River Commission, which is a Nevada state
8 agency. I was deliberating whether to say anything in your
9 hearing today because I don't really think it is appropriate
10 that somebody from out of state should come into your state
11 proceeding and offer comment.

12 But sitting in this audience today and listening to the
13 comments that have been made and watching this transaction
14 develop over the last couple of years from out of state, I
15 would like to observe that I see here today a great deal of
16 civility and intelligence on the part of those who are
17 involved in this transaction from the local perspective.
18 There is really a lot of intelligence and knowledge about
19 the details of the transaction and the desires of part of
20 the local community for the details that would affect their
21 economy and benefit their economy, which comments should be
22 taken into account by the State agency.

23 Your agency, I would assume, I do not know California
24 law this well, but I would assume like most state agencies,
25 as are we, you must take into account the question of

1 whether the transaction is in the public interest. You will
2 probably take that into account with respect to the State of
3 California as would we in Nevada. Notwithstanding that, I
4 think you must also remember that you have a transaction
5 here which is relevant to the regional public interest. By
6 region I mean the Lower Colorado River region, the states of
7 Nevada, Arizona and California and, of course, the upper
8 basin states in the Colorado River system.

9 What is in that general public interest? One of the
10 things that has been contrary to the public interest of
11 those states in the lower Colorado system has been
12 animosity. The infighting between the water interests in
13 the several states. In the last two or three years you have
14 seen this begin to change in the management of the Colorado
15 River system. There is beginning to be a consensus based
16 methodology developed for how to manage the Lower Colorado
17 River, notwithstanding the fact that it is ultimately
18 decided by a federal officer, the Secretary of Interior.

19 The Interim Surplus Guidelines adopted by the
20 Secretary of Interior in 2000 or early 2001, are the
21 culmination of a process where the seven states together
22 worked out a way to allow California to reach its 4.4
23 million acre-feet limit over time by ramping down with the
24 other states forbearing the continued overuse of the state
25 of California. That is an agreement between the governors'

1 representatives of the states which got implemented by the
2 Secretary of Interior.

3 This transaction plays into that overall accomplishment
4 of that objective. So the public interest, which you can
5 take into account when you consider this transaction, is the
6 interest that the people at large and their governments in
7 the region of the lower Colorado system can arrive at
8 decisions on a reasoned, constructive consensus basis.

9 Now, I don't think that the people in the Colorado
10 River system are really as aware of the commitment which the
11 farmers in this area are going to have to make to bring that
12 about. And to those farmers I would say at least on my own
13 behalf thank you. It is a positive contribution which this
14 area is making into the well-being of an entire region, the
15 southwest region of the United States.

16 With respect to one idea which was offered today,
17 offered by Mr. Cohen, a conditioned approval of the
18 transaction with a postponement of final approval until a
19 period of time has transpired in which environmental
20 mitigation can be analyzed. I would only suggest -- first I
21 would say that it is a creative suggestion and one which
22 should be considered.

23 Second, I would suggest that in order to consider it
24 completely one needs to entertain whether the conditioned
25 approval would provide sufficient legal certainty to the

1 parties in order to make their compliance with the deadline
2 of December 2002 possible. That is a necessary element for
3 the implementation of the Interim Surplus Guidelines. It is
4 also a date which has more than legal significance because
5 it is the date which the members of the other seven states
6 are looking to as a point at which we will see the
7 performance of good faith in Californians in implementing
8 the Interim Surplus Guidelines.

9 And I should say that as of now the attitude of the
10 other six basin states is that California is performing in
11 good faith, that the action towards the date of December
12 31st, 2002, is positive and that you can realize it, that
13 you will realize it and that we are all looking forward to
14 that date with some optimism.

15 Thank you very much for the opportunity to present
16 today.

17 CHAIRMAN BAGGETT: Thank you.

18 John Pierre Menville.

19 MR. MENVILLE: John Pierre Menville, 897 West Ross
20 Road. I am a farmer here in Imperial Valley. I just want
21 to say that I as a farmer will do my part to help transfer
22 water to the coastal plain, as long as we farmers are
23 participating in the transfer are fairly compensated for the
24 transfer of water because there will be a lot of effort
25 involved in conserving the water.

1 And also the other thing I wanted to say as to the
2 terms of the environmental liabilities, the federal
3 government and state government and coastal plain will have
4 to step up to the plate and make the farm community whole on
5 any liabilities involved in the transfer, otherwise I will
6 be totally against the transfer, if we are not made whole,
7 because I will not have the liability of the transfer on our
8 back. It is not worth it.

9 There has been a lot of threats out there if we can't
10 put the deal together by December 31st, 2002, that they are
11 just going to come and take the water from us. If that ends
12 up being the case, I'm behind the IID and what they'll have
13 to do, whether it involves court cases or whatever to
14 protect our water rights, because I do not believe that the
15 coastal plain can just come down here and take it away with
16 just compensation, compensation to the farm community and to
17 the Imperial Valley.

18 Thank you.

19 CHAIRMAN BAGGETT: Any other cards?

20 Jo Shields.

21 MS. SHIELDS: I apologize. I'm late so I may be saying
22 something that's probably already been said. I represent --
23 I wear kind of three hats. I'm councilwoman on the City of
24 Brawley. My husband and I own Clyde Shields Entomological
25 Service. We farm the farmers. And my husband and my son

1 farm. And I haven't done a lot of research. I read a lot
2 of things this weekend. I'm not totally knowledgeable, and
3 I am nervous about speaking.

4 But I would like to say, in my own opinion, at this
5 point I don't think the water transfer should go through
6 because it looks like, it is obvious to me, and I am not an
7 engineer, in order to save the Salton Sea you still need the
8 farm runoff from the farms. And it doesn't make a lot of
9 sense to fallow land to put fresh water in the Salton Sea in
10 order for the farmers to conserve water on their ranch. It
11 just doesn't make a whole lot of sense. Makes more sense to
12 me for the conservation to come from some other area. I
13 don't know the total gallons. But that is for the farmer
14 part.

15 For being in the business where we farm the farmers,
16 when farming is bad, when land is fallowed because it is
17 taken out of a grant, it is taken out of production due to
18 something that the government has put in place like a
19 moratorium on, I think it was, cotton, that was fine for the
20 farmers. But for the rest of the community that farmed the
21 farmers, very difficult time. It is really hard for our
22 economy.

23 And as a city councilperson in the City of Brawley, we
24 rely on sales tax revenue to support our general fund, to
25 pay our health and safety employees. We need the money for

1 it is produced by sales of farm equipment, fertilizers,
2 insecticides, grocery, et cetera. And if you put people out
3 of work, you affect all of those areas.

4 So that is kind of briefly, not very well organized,
5 but it is from the heart.

6 Thank you very much.

7 CHAIRMAN BAGGETT: Thank you.

8 Anyone else?

9 If not, it was our pleasure to come down here today and
10 travel to Imperial Valley.

11 I think at least what I heard today only underscores
12 the wide range of environmental, economic and policy issues
13 raised by this transfer. This truly, in my opinion, is one
14 of the most complex and significant hearings ever conducted
15 by the State Water Board. It will be occupying at least 20
16 out of the next 40 days of my life? Just keep posted. You
17 can follow, like I said, on our website. As exhibits get
18 posted, they will all be available.

19 We do recognize the importance and significance.

20 Appreciate you coming out today.

21 Thank you.

22 (Hearing concluded at 11:30 a.m.)

23 ---oOo---

24

25

1 REPORTER'S CERTIFICATE

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, ESTHER F. SCHWARTZ, certify that I was the official Court Reporter for the proceedings named herein, and that as such reporter, I reported in verbatim shorthand writing those proceedings;

That I thereafter caused my shorthand writing to be reduced to typewriting, and the pages numbered 7 through 57 herein constitute a complete, true and correct record of the proceedings.

IN WITNESS WHEREOF, I have subscribed this certificate at Sacramento, California, on this 29th day of April 2002.

ESTHER F. SCHWARTZ
CSR NO. 1564

