

**IMPLEMENTATION OF THE
CALIFORNIA PLAN FOR THE
COLORADO RIVER**

OVERSIGHT FIELD HEARING

BEFORE THE
SUBCOMMITTEE ON WATER AND POWER
OF THE
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTH CONGRESS
SECOND SESSION

June 14, 2002 in LaQuinta, California

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OVERSIGHT FIELD HEARING ON IMPLEMENTATION OF THE CALIFORNIA PLAN FOR THE COLORADO RIVER -- OPPORTUNITIES AND CHALLENGES

**Friday, June 14, 2002
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Resources
LaQuinta, California**

The Subcommittee met, pursuant to call, at 10 a.m., at the La Quinta City Hall, City Council Chambers, La Quinta, California, Hon. Ken Calvert [Chairman of the Subcommittee] presiding.

**STATEMENT OF THE HON. KEN CALVERT, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. CALVERT. Good morning. The Subcommittee on Water and Power will come to order.

I'd like to welcome everybody here this morning. I'd like to thank everybody here for coming to this important event. The Subcommittee is meeting here today to hear testimony on implementation of the California Plan for the Colorado River. We're calling that "Opportunities and Challenges." I'm here today with Senator Jim Costa, the Chairman of the California State Senate Agriculture and Water Resources Committee. We're working together on these issues.

Again, I want to thank everyone for being here this morning. I'd like also to point out something. It's taken a tremendous amount of work putting this hearing on. And I appreciate the interest that's shown by the number of people who have turned out for the hearing today.

Because this is an official congressional hearing as opposed to a town hall meeting we have to abide by certain rules of the Committee and of House of Representatives. So we kindly ask that there be no applause of any kind or any kind of demonstration with regards to the testimony. It is important that we respect the decorum and the rules of the Committee.

I'd also like to introduce Ms. Bono and Duncan Hunter will be here shortly, which represents Imperial County, both California members of Congress who represent districts in the surrounding area.

I'd like to thank Ms. Bono for hosting this field hearing in her district.

At this time I would like to ask for unanimous consent for Congresswoman Bono and when Congressman Hunter arrives, be permitted to sit on the dais. Without objections, so ordered.

I'd also like to introduce California State Senator Jim Costa who, as I mentioned earlier, is Chairman of the California State Senate Agriculture and Water Resources Committee, and welcome him and members of his Committee to join our hearing.

At this time I'd also like to ask unanimous consent that the Senator Costa and members of his Committee be permitted to sit on the dais. Without objection, so ordered.

This is the sixth Subcommittee hearing on water in California and the Colorado River in the last 2 years. The last hearing was 6 months ago in Las Vegas. In addition there have been several briefings in Washington D.C. regarding the progress of the California 4.4 plan. We meet today to hear what progress has been made to see what the state and Federal agencies have done, and determine what actions the Congress may need to take to help implement the plan. With few exceptions, California has been using more than its 4.4 million acre-feet per year allocation of Colorado River water since 1953, and is currently using 5.2 million acre-feet per year. There are a number of circumstances that allowed California to draw more water, but primarily because Nevada and Arizona were not using their full allocation until recently. Now Nevada and Arizona are using all of their water and California has been working hard to develop a strategy to reduce its Colorado River water use. This is a difficult and complex task with many factors that must be considered.

The Colorado River basin states have been generous, helpful, and supportive in working together to develop a framework that would allow the reduction to occur over a 15-year period. We call that the soft landing.

However, time is running out. The documents for the transfer must all be completed by December 31st, 2002, the end of this year. If not, California may be required to immediately reduce its diversions of Colorado River water to 4.4 million acre-feet. This action would not allow for the gradual transition that would be provided in the California 4.4 plan. No soft landing.

Because the Colorado River provides water to 16 million people and 900,000 acres of farm land in California, many things are considered in drafting the plan. These considerations include economic impacts to the agricultural communities, flows in the Colorado River below Parker Dam, flows into the Salton Sea, which is on the brink of becoming hypersaline regardless of any transfer actions, and potential dust problems if the sea elevation declines.

The final steps are being taken to meet the December 31st deadline. The health and economic well-being of California rides on the outcome of these actions. We look forward to hearing from our witnesses.

[The prepared statement of Mr. Calvert follows:]

**Statement of The Honorable Ken Calvert, Chairman,
Subcommittee on Water and Power**

This is the sixth Subcommittee hearing on water in California and the Colorado River in the last two years. The last hearing was six months ago in Las Vegas, Nevada. In addition, there have been several briefings in Washington, DC regarding the progress of the California 4.4 Plan. We meet today to hear what progress has been made, to see what the State and Federal Agencies have done, and to determine what actions the Congress may need to take to help implement the Plan.

With few exceptions, California has been using more than its 4.4 million acre-feet/year allocation of Colorado River water since 1953 and currently is using 5.2 million acre-feet/year. There are a number of circumstances that allowed California to draw more water, but primarily because Nevada and Arizona were not using their full allocation until recently.

Now Nevada and Arizona are using all of their water and California has been working hard to develop a strategy to reduce its Colorado River water use. This is a difficult and complex task with many factors that must be considered.

The Colorado River Basin States have been generous, helpful and supportive in working together to develop the framework that would allow the reduction to occur over a 15 year period.

However, time is running out. The documents for the transfer must all be completed by December 31, 2002. If not, California may be required to immediately reduce its diversions of Colorado River Water to 4.4 MAF. This action would not allow for the gradual transition that would be provided in the California 4.4 Plan.

Because the Colorado River provides water to 16 million people and 900,000 acres of farmland in California, many things were considered in crafting the Plan. These considerations include economic impacts to the agricultural communities, flows in the Colorado River below Parker Dam, flows into the Salton Sea which is on the brink of becoming hypersaline regardless of any transfer actions, and potential dust problems if the Sea elevation declines.

The final steps are being taken to meet the December 31, 2002 deadline. The health and economic well being of California rides on the outcome of these actions.

We look forward to hearing from our witnesses.

I would now like to recognize Ms. Bono for her statement, and thank you for having us here in your congressional district.

**STATEMENT OF THE HON. MARY BONO, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mrs. BONO. Thank you, Mr. Chairman. I would like to welcome my colleagues to the 44th Congressional District and thank Chairman Calvert for agreeing to hold this hearing in La Quinta.

In addition, I am very appreciative to the city of La Quinta for being such gracious hosts.

The subject of this hearing, "Implementation of the California Plan for the Colorado River, Opportunities and Challenges," encapsulates the dilemma we face. All of us agree that California must take meaningful steps toward reducing its usage on Colorado River water. The Quantification Settlement Agreement is the key component to do just this. A combination of conservation efforts and water transfers will go a long way toward meeting this mandate.

However, as we go about this process I believe we cannot overlook the environmental impact certain aspects of the QSA will have on the Salton Sea. Too often California's fractious history of water politics has forsaken long-term stability for short-term gains. One need only look to Owens Valley to see how the lack of planning can lead to costly financial and health consequences which we continue to struggle with today. Therefore, while I'm very well aware of the ramifications of not implementing the QSA, I also believe there would be significant unintended impacts from implementing this

agreement without concurrently considering some mitigation measures.

One possible casualty in the full implementation of QSA is the Salton Sea. My intentions in bringing this to the Committee's attention do not have as much to do with maintaining the sea's current level or formation, but rather is focused on securing the overall health and quality of life of the human population in the surrounding areas of the Coachella and Imperial valleys.

I have not been assured that the impact of the QSA, which will have a dramatic impact on the sea, will not cause considerable harm to the air quality in this region. Whether it be an increase in PM-10, air toxics, or stench, these concerns extend far beyond the immediate area of the Salton Sea and impact the entire Southern California region. Many community groups like the American Lung Association have voiced concerns about possible air quality impacts. Imperial County's childhood asthma hospitalization rate is more than twice as high as the state average. I'm very concerned about the additional health concerns which could arise from an exposed shoreline.

So for those who claim the sea will die anyway, I continue to point out the dangerous consequences of a dead sea. Owens Valley, according to EPA, is the dustiest place in the United States, having about 75 square miles of exposed land. The Salton Sea, if all the water transfers continue without mitigation, faces over 105 square miles of exposed sea surface. Therefore, while there is a legitimate question of how we can restore the sea, a dead sea, with this level of exposure could, based upon these numbers, eclipse Owens Valley as the dustiest place on earth, and put the health of those living in and around the sea in jeopardy.

Just as I have been saying for the past year, while I support and understand the needs of urban communities in Southern California to receive water, I cannot overlook the needs of the constituents of the Coachella Valley who must live in these conditions and whose livelihood depend on a tourism industry so vital to our community.

Therefore my concerns extend far beyond the harm water transfers may have on just the ecosystem. It is unwise to delay the resolution of this problem for a later date when we have the responsibility to address it now.

The question then becomes how we achieve our goal in mitigating for air quality while still delivering water to urban areas of our state and meet the deadline of the California plan. Recently MWD, San Diego Water, and the Coachella Valley Water District, as well as Senator Feinstein recommended an alternative form of fallowing as an option to achieve this goal. I understand the concerns of farmers and businesses in the Imperial Valley. We have an obligation to evaluate the negative impacts of fallowing as well. However, I also believe all options should be placed upon the table so we can formulate an effective response which perhaps contains within it a variety of concepts. I believe it is in the best interests of the entire region to address these issues in their totality, and to do anything less would be flawed public policy.

There are several proposals out there worthy of our consideration. It is my hope that we can take the time to actively review and debate them.

Thank you, Mr. Chairman. And I yield back the balance of my time.

[The prepared statement of Ms. Bono follows:]

Statement of The Honorable Mary Bono, a Representative in Congress from the State of California

I would like to welcome my colleagues to the 44th Congressional District and thank Chairman Calvert for agreeing to hold this hearing in La Quinta. In addition, I am very appreciative to the City of La Quinta for being such gracious hosts.

The subject of this hearing, "Implementation of the California plan for the Colorado River—Opportunities and Challenges" encapsulates the dilemma we face. All of us agree that California must take meaningful steps towards reducing its usage on Colorado River water. The Quantification Settlement Agreement is the key component to do just this. A combination of conservation efforts and water transfers will go a long way towards meeting this mandate.

However, as we go about this process, I believe we cannot overlook the environmental impact certain aspects of the QSA will have on the Salton Sea. Too often, California's fractious history of water politics has forsaken long term stability for short term gains. One need only look to Owen's Valley to see how the lack of planning can lead to costly financial and health consequences which we continue to struggle with today.

Therefore, while I am well aware of the ramifications of NOT implementing the QSA, I also believe there would be significant unintended impacts from implementing this agreement without concurrently considering some mitigation measures.

One possible casualty in the full implementation of the QSA is the Salton Sea. My intentions in bringing this to the Committee's attention do not have as much to do with maintaining the Sea's current level or formation, but rather is focused on securing the overall health and quality of life of the human population in the surrounding area of the Coachella and Imperial Valleys.

I have not been assured that the impacts of the QSA, which will have a dramatic impact on the Sea, will not cause considerable harm to the air quality in this region. Whether it be an increase in PM-10, air toxins or stench, these concerns extend far beyond the immediate area of the Salton Sea and impact the entire Southern California region.

Many community groups, like the American Lung Association, have voiced their concerns about possible air quality impacts. Imperial County's childhood asthma hospitalization rate is more than twice as high as the state average. I'm very concerned about the additional health concerns which could arise from an exposed shoreline.

So for those who claim the Sea will die anyway, I continue to point out the dangerous consequences of a "dead Sea". Owen's Valley, according to the Environmental Protection Agency, is the dustiest place in the United States, having about 75 square miles of exposed land. The Salton Sea, if all the water transfers continue without mitigation, faces over 105 square miles of exposed Sea surface. Therefore, while there is a legitimate question of how we can restore the Sea, a "dead Sea" with this level of exposure could, based upon these numbers, eclipse Owens Valley as the dustiest place on earth and put the health of those living in and around the Sea in jeopardy.

Just as I've been saying for the past year, while I support and understand the needs of urban communities in Southern California to receive water, I cannot overlook the needs of the constituents of the Coachella Valley who must live in these conditions and whose livelihoods depend on a tourism industry so vital to our community. Therefore, my concerns extend far beyond the harm water transfers may have on just the eco-system. It is unwise to delay the resolution of this problem for a later date when we have the responsibility to address it now.

The question then becomes how we achieve our goal in mitigating for air quality while delivering water to urban areas of our state and meeting the deadline of the California Plan. Recently, MWD, San Diego Water and the Coachella Valley Water District, as well as Senator Feinstein, recommended an alternative form of following as an option to achieve this goal. I understand the concerns of farmers and businesses in the Imperial Valley. We have an obligation to evaluate the negative impacts of following as well. However, I also believe all options should be placed upon the table so we can formulate an effective response which, perhaps, contains within it a variety of concepts.

I believe it is in the best interest of the entire region to address these issues in their totality, and to do anything less would be flawed public policy. There are several proposals out there worthy of our consideration and it is my hope that we can take the time to actively review and debate them.

Thank you Mr. Chairman and I yield back the balance of my time.

Mr. CALVERT. I thank the gentlelady. I'd like now to recognize Senator Costa so that he can make his statement and recognize the members of his district.

STATEMENT OF THE HON. JIM COSTA, SENATOR, CALIFORNIA STATE SENATE, AND CHAIRMAN OF THE CALIFORNIA STATE SENATE AGRICULTURE AND WATER RESOURCES COMMITTEE

Mr. COSTA. Thank you very much, Congressman Calvert. I want to also add my thanks for Congresswoman Bono and Senator Kelly and the other members who represent this great part of California for allowing us to be here this morning. And to have an opportunity to discuss what I believe is one of the most important issues facing California in the near term.

Obviously we have a lot of challenges in this state, not to mention our current budget discussions in Sacramento, but in the longer term, we all know that water is the lifeblood of California. And Congressman Calvert I think stated it well in his opening statement because this effort that we are focused on today and that we have been working on for many years is absolutely essential. Its success is absolutely essential to addressing California's long-term water needs. I can't emphasize it enough. And therefore, the California Colorado River Water Plan that we are discussing here today, the implementation of it, the successful timeliness of signing the Quantification Settlement Agreement by December 31st of this year, in my opinion is what we must be focused upon.

You know, notwithstanding the—the remaining outstanding issues that are there, the fact is, when you think about it, we've made significant progress in recent years. We've brought together four of the major water agencies in Southern California to come together to look toward solutions to living under the 4.4 allocation of the Colorado River, with a plan that we believe will get us there, that will show good faith with our neighboring states, both in the lower basin and the upper basin. But time is running out. And our neighboring states, our friends who we have worked with, are closely examining whether or not we are going to meet the commitments that are contained in the Quantification Settlement Agreement. And therefore all of our efforts I believe collectively must be focused on what it takes to successfully reach the goal line.

Today I'll be looking forward to listening to the comments and asking questions to not only determine what obstacles remain to implement this document, but also to explore what flexibility both the state and Federal Government has as it relates to assisting all of the parties in reaching that goal.

I also think it's very important, as was stated by Congresswoman Bono, that we determine the best ways to handle the issues surrounding the Imperial Irrigation District's water conservation program, and the third-party impacts surrounding that, as well as focusing on the issue surrounding the Salton Sea, and concerns that

have been expressed here in Coachella Valley as well as Imperial Valley about the potential ramifications on the effects of these conservation programs.

Let me tell all of you that I sincerely appreciate the hard work that has been done. As Chairman of the Senate Agriculture and Water Committee, if we have a California water plan, I will tell you that the basis of the California water plan is successful implementation of the Colorado River reoperation efforts to the 4.4 allocation, the successful authorization on the Federal level, Congress Calvert and Senator Feinstein are working on to authorize CALFED, and the State's continuing effort to move CALFED forward. That coupled with an effort to implement regional plans I think provides a blueprint to all of us to ensure that California has sufficient water to support a population of 50 million people by the year 2002. Those are the challenges we face. And no one knows that any better than my colleague, Assemblymember Dave Kelly, who formally served in California State Senate and who has made water one of his primary focuses during his career in the California legislature. And I would like to give the remainder of my time to Assemblymember Kelly to welcome us here this morning.

Mr. KELLY. Thank you very much, Senator Costa, Congressman Calvert, Mary Bono. I appreciate having the opportunity to come down here today.

I won't repeat a lot of things that have already been said, but let me just state that as the author of the California 4.4 plan and legislation I carried requiring us to live within that requirement, little did I understand at that point in time what we were headed for, what we were going to do, how it was going to impact the State of California. But let me just state that the State of California and the water issues that we're facing today are geared around living within the 4.4 allocation of water from the Colorado River. The other legislation that I carried that has tremendous impact on that was the establishment of the Salton Sea Authority, that prior to that legislation there were no guidelines, there was no body set up, there was no one guiding the Salton Sea and putting some sort of a forum on what would be done within the Salton Sea. So there again, these two bills—and there's been many other statutes that I carried that have gone on the books here in California regarding these matters that have a tremendous impact on the whole State of California. And rather than discuss it all with me personally, I think we ought to hear what the people have to say and the witnesses have to say. So I'll turn it back to you, Chairman Calvert.

Thank very much for being here.

Mr. CALVERT. Thank you, gentlemen.

I'd like to point out before we move forward to our witnesses that both Senator Costa and Assemblyman Kelly will both be leaving the service of the State of California. And I want to congratulate you on your great service to our state over the years. We'll miss you both. You're both water experts in our state and hopefully you'll still be around for advice. But certainly we'll continue to need it.

Mr. COSTA. Thank you.

Mr. CALVERT. Now I'd like to introduce our first panel of the witnesses. The first witness is Bennett Raley, Assistant Secretary of

Water and Science to the U.S. Department of the Interior. The second witness is Mr. Wayne Nastri, Regional Administrator of U.S. Environmental Protection Agency, Region 9. And Mr. Tom Hannigan, Director of California Department of Water Resources.

Mr. CALVERT. With that, Mr. Raley, I'll recognize you. And as you well know, we're under a 5-minute rule on oral statements. If you have any additional comments for the record, please submit them. And with that, you're recognized.

**STATEMENT OF BENNETT W. RALEY, ASSISTANT SECRETARY,
WATER AND SCIENCE, U.S. DEPARTMENT OF THE INTERIOR**

Mr. RALEY. Thank you, Mr. Chairman, Congresswoman Bono, members of the California delegation. It's a pleasure to be here. It's more than a pleasure to be here. We are deeply appreciative of the leadership shown by the state and by California delegation on this issue, because the issue of management in the Colorado River and all the subparts of that are one of the highest priority in the Department of the Interior.

Mr. Chairman, I wish to thank you for your continued attention on this and on CALFED. We deeply appreciate the ability to work our way through two very, very complex problems.

Congresswoman Bono, I will confirm my daughter Sarah who accompanied my today has informed me that she much prefers your district to living in Virginia. And if you will accept her, we will miss her.

Let me turn to the serious matters. The issues that are encompassed in the California plan in the Salton Sea are truly significant on a time scale of centuries. The Salton Sea in its present form was created as a result of something that happened a long time ago. The legal institutional issues that we deal with go back to 1922 with the Colorado River Compact, 1927—if I state it right—with the California Rotation Act. The work that we cannot fail to complete is truly an extension of the work that's done before. I say with no reservation that the work that has brought us to this point in the last decade from all the stake holders, Federal side, state side, and the citizens, has been remarkable, and probably would not have been predicted 12 or 14 years ago. For us, that work, if you count the personal years that have gone into this, really hasten the stakes, because we do not know, should this effort fail, how things will be stitched together in a way that will be the basis for a better resolution than what is readily attainable today under the California plan. We are deeply concerned, the department is deeply concerned that the QSA may in fact not be executed by December 31st, 2001—2002. Sorry. Expected it to be executed, anticipated it to be executed by 2001, and that the deadline is 2002. We have a lot of time left, as these matters go—six months—a lot of time, and a lot of hard work and effort to be prepared.

Mr. Chairman, with your permission I submit my written testimony for the record. And I'd also ask that the record include the Federal register notice that I signed yesterday as being transmitted for publication in the Federal legislature. Likely it will be published sometime next week.

Mr. CALVERT. So ordered.

[The information referred to follows:]

Federal Register: June 19, 2002 (Volume 67, Number 118)]

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

COLORADO RIVER INTERIM SURPLUS GUIDELINES, NOTICE REGARDING
IMPLEMENTATION OF GUIDELINES

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice and correction.

SUMMARY: The Colorado River Interim Surplus Guidelines (Guidelines) were adopted as a result of a Record of Decision signed by the Secretary of the Interior (Secretary) and published in the Federal Register on January 25, 2001 (66 FR 7772-7782). The Department of the Interior (Department) has received a number of informal comments and has identified issues regarding implementation of the Guidelines. This notice identifies and addresses these issues in order to facilitate a common understanding regarding the implementation of the Guidelines for calendar year 2003. This notice also corrects a typographical/ computational error in the Guidelines as published in the Federal Register on January 25, 2001.

DATES: The Secretary is not proposing to take any specific action as a result of this Federal Register notice. Accordingly, the Department is not establishing a specific date by which comments must be submitted. The Secretary will also accept input on the issues addressed by this Federal Register notice through the process under which the Annual Operating Plan for the Colorado River System Reservoirs (AOP) is developed. This process includes consultation with the Colorado River Management Work Group, a group that the Secretary consults with in order to carry out the provisions of section 602(b) of the Colorado River Basin Project Act of 1968 and section 1804(c)(3) of the Grand Canyon Protection Act of 1992.

ADDRESSES: You may submit written comments to the Regional Director, Lower Colorado Region, Attention: Jayne Harkins, Bureau of Reclamation, P.O. Box 61470, Boulder City, Nevada 89006-1470.

SUPPLEMENTARY INFORMATION: The Secretary, pursuant to applicable law including particularly the Boulder Canyon Project Act of December 28, 1928 (BCPA), and the Supreme Court opinion rendered June 3, 1963, and decree entered March 9, 1964 (Decree) in the case of *Arizona v. California, et al.*, is vested with the responsibility to manage the mainstream waters of the Colorado River in the Lower Basin. In furtherance of this responsibility, the Department, through a notice published in the Federal Register on May 18, 1999 (64 FR 27008-09), initiated a process to develop specific criteria to identify those circumstances under which the Secretary would make Colorado River water available for delivery to the States of Arizona, California, and Nevada (Lower Division States or Lower Basin) in excess of the 7,500,000 acrefoot Lower Basin basic apportionment. The Department noted in that notice that "[i]n recent years, demand for Colorado River water in Arizona, California, and Nevada has exceeded the Lower Basin's 7,500,000 basic apportionment. As a result, criteria for determining the availability of surplus [water] has become a matter of increased importance." (64 FR 27009). In particular, California has been using water in excess of its 4.4 million acre-foot mainstream basic apportionment established in the BCPA for decades.

The Department, through a notice published in the Federal Register on January 25, 2001 (66 FR 7772-7782) notified the public that the Secretary signed a Record of Decision (ROD), regarding the preferred alternative for Colorado River Interim Surplus Guidelines on January 16, 2001. The Guidelines "implement Article III(3)(B) of the [Long Range Operating Criteria]" adopted pursuant to the Colorado River Basin Project Act of 1968 (as published in the Federal Register on June 10, 1970). (65 FR 78511).

Pursuant to section 3 of the Guidelines, the Secretary utilizes the "Guidelines to make determinations regarding Normal and Surplus conditions for the operation of Lake Mead * * *" during "development of the Annual Operating Plan for the Colorado River System Reservoirs (AOP)." (66 FR 7781). The Secretary applied these Guidelines for the first time during the development of the 2002 AOP, signed by the Secretary on January 14, 2002. In the period since adoption of the 2002 AOP, increasing attention has been focused on the provisions of the Guidelines and their application to AOP determinations that are upcoming for 2003. In particular, numerous entities have contacted the Department to discuss their views and concerns regarding the provisions of Section 5 of the Guidelines, entitled "California's Colorado River Water Use Plan Implementation Progress." (66 FR 7782). This provision of the Guidelines was included in order to assist the Secretary in the execution

of the Secretary's watermaster duties on the lower Colorado River, which include facilitating adherence to the Lower Basin's allocation regime. The relationship between efforts to reduce California's reliance on surplus deliveries and the adoption of specific criteria to guide surplus determinations was established in the initial Federal Register notice announcing the potential development of surplus guidelines: "Reclamation recognizes that efforts are currently underway to reduce California's reliance on surplus deliveries. Reclamation will take account of progress in that effort, or lack thereof, in the decision-making process regarding specific surplus criteria." (64 FR 27009). This concept was embodied in the purpose of and need for the Federal action as analyzed in Reclamation's Environmental Impact Statement regarding adoption of the Guidelines: "Adoption of the [Guidelines] is intended to recognize California's plan to reduce reliance on surplus deliveries, to assist California in moving toward its allocated share of Colorado River water, and to avoid hindering such efforts. Implementation of [the Guidelines] would take into account progress, or lack thereof, in California's efforts to achieve these objectives." Final Environmental Impact Statement at 1-3 to 1-4. Sections 5(B) and 5(C) of the Guidelines established independent conditions for performance of certain actions by entities in California, and the implications for surplus determinations in the event that the conditions for performance are not met. Section 5(B) of the Guidelines specifically addresses California's Quantification Settlement Agreement (QSA), a proposed agreement among the Imperial Irrigation District, the Coachella Valley Water District, the San Diego County Water Authority and The Metropolitan Water District of Southern California. The QSA is a critical agreement among the California parties to reduce California's reliance on surplus water from the Colorado River. The QSA addresses the use and transfer of Colorado River water for a period of up to seventy-five years. With respect to execution of the QSA, section 5(B) of the Guidelines states: "It is expected that the California Colorado River contractors will execute the Quantification Settlement Agreement (and its related documents) * * * by December 31, 2001." (66 FR 7782). The parties were unable to execute the QSA by this date, and over the past year, there has been increasing concern regarding the ability of the California Colorado River contractors to execute the QSA by the end of this year. Failure to execute the QSA by the end of 2002 is specifically addressed by section 5(B) of the Guidelines: "In the event that the California contractors and the Secretary have not executed [the Quantification Settlement Agreement (and its related documents)] by December 31, 2002, the interim surplus determinations under Sections 2(B)(1) and 2(B)(2) of these Guidelines will be suspended and will instead be based upon the 70R Strategy, for either the remainder of the period identified in Section 4(A) or until such time as California completes all required actions and complies with reductions in water use reflected in Section 5(C) of these Guidelines, whichever occurs first." (66 FR 7782). In light of the concern regarding the ability of the California Colorado River contractors to execute the QSA by the end of 2002, increasing attention has focused on the specific requirements of this section of the Guidelines. Some informal commentators have suggested that failure to execute the QSA would have no consequence for surplus determinations for 2003 under the Guidelines. Other commentators have observed that the Guidelines would be terminated if the QSA and its related documents were not executed by December 31, 2002. Such suggestions are inconsistent with the plain language of the Guidelines as adopted. The Department observes that the Guidelines specifically provide that "In the event that the California contractors and the Secretary have not executed such agreements by December 31, 2002, the interim surplus determinations under sections 2(B)(1) and 2(B)(2) of these Guidelines will be suspended and will instead be based upon the 70R Strategy * * * " (66 FR 7782) (emphasis added). Therefore, in the event that the QSA and its related documents are not executed by December 31, 2002, as provided above, the "determinations under sections 2(B)(1) and 2(B)(2) of these Guidelines will be suspended." (66 FR 7782). This suspension, under section 5(B) of the Guidelines does not suspend or terminate the Guidelines as a whole; rather, in the event of a suspension, surplus determinations are limited to sections 2(A)(1), 2(B)(3) and 2(B)(4). Nothing in this notice is intended to address or limit the appropriate circumstances for reinstatement of sections 2(B)(1) and 2(B)(2) as the bases for annual surplus determinations. Reinstatement of these sections of the Guidelines will be made in accordance with the provisions of section 5(B), which provides that in the event of a suspension, the 70R Strategy will be the basis for surplus determinations "for either the remainder of the period identified in Section 4(A) [i.e., until December 31, 2015] or until California completes all required actions and complies with reductions in water use reflected in section 5(C) of the[] Guidelines, whichever occurs first." (66 FR 7782) (emphasis added).

Section 5(C) addresses the other conditions for performance of certain actions by entities in California, i.e., the specific Benchmark Quantities that California agricultural “use would need to be at or below” at the end of the specified calendar years. The Benchmark dates are established in three year intervals beginning in 2003. As with the requirements in section 5(B), section 5(C) also establishes the implications for surplus determinations in the event that the Benchmark quantity conditions for performance are not met. One of the benefits of adoption of the Guidelines was to provide “more predictability to States and water users” with respect to “the Secretary’s annual decision regarding the quantity of water available for delivery to the Lower Basin States.” (64 FR 27009). In light of the above identified concern with respect to the likelihood regarding execution of the QSA by the date established in section 5(B) of the Guidelines, one of the issues that the Secretary will be analyzing in the period between this notice and January 1, 2003 (the statutory date for transmittal of the 2003 AOP, pursuant to 43 U.S.C. Sec. 1552(b)), will be the impact on Lower Basin users, particularly in Nevada, in the event that the Guidelines are suspended pursuant to the provisions of section 5(B). The relevant considerations with respect to this issue include the following: (1) The ability of lower basin entities outside of California, to affect compliance with the section 5(B) requirements, (2) the need of other lower basin entities outside of California, to utilize surplus quantities in 2003 (and the relative amounts of such surplus quantities), (3) impacts on storage of water in the Colorado River reservoirs, and the impact on future deliveries to users of the waters of the Colorado River under applicable provisions of Federal law and international treaty, (4) impacts on California’s ability to meet applicable conditions for reinstatement of the determinations under sections 2(B)(1) and 2(B)(2). The Department corrects a typographical/computational error in the Guidelines as published in the Federal Register on January 25, 2001. Specifically, the correction would replace the value of 100,000 acrefeet that appears in section 2(B)(1)(a) with the value of 120,000 acrefeet. The basis for this correction is as follows. The Federal Register notice published on January 25, 2001 states that the decision made by the Secretary is “adoption of specific interim surplus guidelines identified in the Preferred Alternative (Basin States Alternative) as analyzed in the FEIS.” (66 FR 7773). Reclamation had earlier published information that Reclamation had received from the Colorado River Basin states of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming during the public comment period” on the proposed adoption of the Guidelines. (65 FR 48531–48538). Reclamation crafted an alternative based on this information, which was ultimately identified as the preferred alternative. As submitted to the Department, and published in the Federal Register, the information from the basin states provided in section IV(B)(1)(a) with respect to Direct Delivery Domestic Use by MWD, that offsets “shall not be less than 400,000 acrefeet be reduced by 20,000 af/yr over the Interim Period so as to equal 100,000 af in 2016.” (65 FR 48536). When the ROD was prepared, the Department modified this provision of the proposed alternative to take into account that the Guidelines would not be in effect for 2001 AOP determinations, and would first be applied for 2002 determinations. Accordingly, the year was modified in this provision from 2001 to 2002. (66 FR 7780). However, when this change was incorporated into the ROD, the Department did not modify the corresponding value for the end date (i.e., in year 2016). The computation of a reduction of 20,000 af/year during the interim period yields a final value of 120,000 rather than the published value of 100,000.

Mr. RALEY. The Federal Register notice that I signed yesterday poses issues and creates the basis for a common understanding and dialog about what is required and is not required under the California plan from a Federal perspective. I believe I can summarize that Federal notice quickly. First, the Federal notice seeks to establish kind of common understanding of what will occur if the QSA is not executed. Our understanding is that under the plain language of your interim surplus guidelines, that if the QSA is not executed, the surplus currently available will be suspended, and that we will return to what is known within the water community and the management community as an operation based on 70R.

Second, the Federal Register notice poses the question that the department is currently considering but not proposing any specific action for as to whether or not in the event of the suspension of

the interim surplus guidelines, the availability of surplus for the State of Nevada is treated differently than the availability of surplus for the State of California.

The third matter I will not go into detail on is what we believe to be truly a correction of typographical or computational errors that someone misunderstood or we did not understand the basis for the correction. We certainly want to discuss that, Mr. Chairman, I want to remain available for questions, and I hope to spend as much of today as I can so I can learn from the witnesses and your dialog with them. Thank you.

Mr. CALVERT. We appreciate that. Mr. Hunter will be here shortly, and I'm sure he'll have some questions for you.

[The prepared statement of Mr. Raley follows:]

**Statement of Bennett W. Raley, Assistant Secretary for Water and Science,
U.S. Department of the Interior**

My name is Bennett Raley. I am the Assistant Secretary of the Interior for Water and Science at the Department of the Interior.

Mr. Chairman. It is a pleasure to be here today representing the Department of the Interior to offer testimony with respect to the status of Colorado River management initiatives designed to provide water management stability to the State of California and to all who share in the benefits of the Colorado River throughout the Colorado River Basin. I will focus my remarks today on the history and progress of the California 4.4 Plan, the critical importance to southern California of the implementation of the Plan, and the potential results if key components of the Plan fail to fall into place.

The progress that has been made in over the last decade towards the goal of resolving serious and long-standing issues relating to California's use of Colorado River water has been nothing short of phenomenal. All of the California Colorado River Water Users as well as the other Colorado River Basin States worked together to develop a water management strategy that achieves the water use reductions that are mandated by the Law of the River. All the parties are commended for their efforts in developing this essential plan, which implements the findings of the Supreme Court in *Arizona v. California* some 38 years ago.

However, while we remain hopeful and resolute in our desire to implement the California Plan, we are increasingly concerned that California water management entities will not meet one of the critical milestones for implementation of the California 4.4 Plan. In particular, we are concerned that California water management entities may not execute the draft Quantification Settlement Agreement by December 31, 2002.

The Department understands that complex legal, policy, and economic issues relating to the Salton Sea have created an unexpected challenge for implementation of the California 4.4 Plan. From a Federal perspective, the existence of this challenge does not obviate or modify the requirements of the Secretary's Interim Surplus Guidelines. Under the Guidelines, the Secretary must make certain determinations with respect to the availability of surplus water in the Lower Colorado River basin. These determinations are to be implemented in the context of the Annual Operating Plan for the Colorado River, which is required, by statute, to be finalized by the Secretary by January 1, 2003.

We understand and are sensitive to the concerns of Imperial County residents regarding some of the options that have been discussed in the context of the search for a solution to the complex issues relating to the future of the Salton Sea. In this regard, I have transmitted a letter dated May 31, 2002 to the President of the Board of Directors of the Imperial Irrigation District, Ms. Stella Mendoza. A copy of this letter is attached to this testimony, and is submitted for the formal record of this hearing.

While achieving consensus among all interested parties has been the goal and practice of the Secretary in matters relating to Colorado River management, the Federal role is deeply affected by the dictates of the numerous legal authorities which bear on the management of the Colorado River. These authorities, collectively known as the "Law of the River," include, for example, the 1922 Compact, the Boulder Canyon Project Act of 1928, the water delivery contracts entered into under Section 5 of that Act, the Federal reserved rights of Indian tribes, the Mexican Treaty of 1944 and the Minutes which apply its terms, the Colorado River Storage Project

Act of 1956, the opinion and Decree in *Arizona v. California*, the Colorado River Basin Project Act of 1968, the Colorado River Basin Salinity Act of 1974, and other Federal statutes.

The Department understands the seriousness of these issues to the State of California and California water management agencies. However, under the Law of the River the Secretary must also consider the rights and interests of the other States in the Colorado River Basin, and the obligation to comply with the requirements of the Mexican Treaty of 1944. The history and nature of these responsibilities provides the context for an understanding of the consequences of a failure of the California 4.4 Plan.

The California 4.4 Plan; Background

The California 4.4 Plan is a bold attempt by the urban and farming interests of southern California to work together to overcome countless obstacles to achieve a common goal: to reduce the State of California's present dependence on the waters of the Colorado River.

The amount of Colorado River water available to the State of California is variable. First and foremost is the question of available water supply within the Colorado River system. Second is the question of demand, both in California and in the other Basin States of Colorado, Utah, Wyoming, New Mexico, Nevada and Arizona.

In the past California benefitted from ample water supplies in Lake Mead and from the more gradual development of water uses in the other Basin States. California put to use the waters apportioned to it by the Secretary under the Decree in *Arizona v. California*. California also put to use water legally available to but not used by the other Basin States, water then made available to California by the Secretary under the provisions of the Decree.

The State of California has for decades received water in excess of the baseline quantity of 4.4 million acre-feet available to it in a normal, non-surplus year. The 4.4 million acre-feet of water available to California in a normal year is sufficient to meet the needs of agricultural interests such as the Palo Verde Irrigation District (PVID), the Yuma Project, the Imperial Irrigation District (IID) and the Coachella Valley Water District (CVWD) each year, and still fill a good portion of the Colorado River Aqueduct which helps to fuel the economy of coastal California.

The remainder of the Colorado River Aqueduct has been filled in past years with additional water not used by the States of Nevada and Arizona or water made available in years of surplus. Neither the historical fact of the repeated, and lawful, release to California of water not taken by Nevada or Arizona, nor the present reality of the dependency of California on this additional water, can alter the terms of the Decree. California has no legal right to the continued use of water in excess of 4.4 million acre-feet in a normal year. Nor does California's use of additional water during times of surplus alter the immutable laws of nature. The Colorado River will have periods of surplus, periods of normal flow and periods of drought.

The history of California's water use is not complete without a reference to concerns about the farming efficiencies of senior priority holders. For decades concern has been expressed about IID's water use. In 1984, the California State Water Resources Control Board found in Decision 1600 that IID could achieve additional farming efficiencies, in particular, reducing tailwater practices (embodied in Order 88-20). Many of the concerns raised in the 1980's continue to exist today. Neither the Decree in *Arizona v. California* nor Federal Reclamation law permit Colorado River water to be wasted.

The Secretary, the State of California, and the other Basin States have long recognized that with the increased uses of Colorado River water by Nevada and Arizona and with the unpredictability of water supplies in the Colorado River system, California would have to develop a plan to reduce its use of Colorado River water. California has done so. In an intrastate cooperative effort of enormous magnitude, the water agencies in California have worked together to develop the California 4.4 Plan.

The California 4.4 Plan

On May 11, 2000, the Colorado River Board of California issued California's draft Colorado River Water Use Plan (the California 4.4 Plan). Developed over the course of years through the painstaking efforts of numerous parties, the California 4.4 Plan is an ambitious multi-faceted undertaking.

The California 4.4 Plan contemplates a number of elements and benefits:

- the conservation of water through the lining or replacement of unlined portions of the All American and Coachella Canals,

- conjunctive groundwater use through additional groundwater storage to provide reserves in years of normal or shortage water supply,
- the adoption of reservoir operating criteria to provide greater certainty of availability of surplus waters for urban uses during the phased-in reduction of Colorado River water use,
- the settlement of the water rights of the San Luis Rey Bands,
- the reduction in Colorado River water use in PVID and IID, with appropriate compensation, and the transfer of this water to coastal urban areas for a limited but substantial period of time.

Tremendous progress has been made in recent years in the development and implementation of each of these critical components of the California Plan. I will now focus on a couple of these components which will require attention in the coming months.

Reservoir Operation Criteria (Interim Surplus Guidelines)

A critical element to the California 4.4 Plan was the adoption of reservoir operation criteria designed to ensure MWD a measure of certainty with respect to the availability of surplus water to fill the Colorado River Aqueduct during the years in which, under the California 4.4 Plan, California's water use is ratcheted down.

This component of the California 4.4 Plan was completed in January of 2001 when the Secretary of the Interior signed the Record of Decision approving the adoption of the Colorado River Interim Surplus Guidelines. These Guidelines were constructed upon a commitment by California water agencies to achieve a settlement of issues relating to the transfer of Colorado River water through a Quantification Settlement Agreement (QSA) by December 31, 2002.

The Colorado River Interim Surplus Guidelines set forth specific elevation levels in Lake Mead which trigger surplus declarations of varying size. These Guidelines are a delicate balance of competing and diverse interests and would not exist except for the herculean efforts of the representatives from all of the Basin States and the Bureau of Reclamation whose combined sustained effort overcame seemingly insurmountable obstacles. It is because of these Guidelines that the Colorado River Aqueduct is full in the Year 2002. Likewise, the requirements of these Guidelines define the consequences of a failure to meet the agreed-upon milestones that are the essence of the California 4.4 Plan.

Water Transfers

Perhaps the most visible, most complex, and single most important feature of the California 4.4 Plan is the voluntary transfer of large quantities Colorado River water from irrigation to municipal and industrial uses. I emphasize that these are voluntary transfers. The California 4.4 Plan, including the water transfer components, is one of the finest examples to date of Colorado River management through consensus.

A recent and excellent example of such a voluntary water transfer is the effort MWD is undertaking with PVID. An agreement in principle was reached in July of 2001 in which varying numbers of acres in PVID would not be farmed, at the request of MWD and with the payment of substantial sums to participating PVID landowners, with the resulting water savings flowing through the quantified entitlements defined in the QSA to MWD. The certainty of this valuable program, of course, depends on the completion of the QSA. Absent the QSA (or some other form of quantification) there is no guarantee that any water transfer program, including the PVID program, will actually result in reductions in Colorado River water use by California. A draft Environmental Impact Report for this Palo Verde Irrigation District Land Management, Crop Rotation and Water Supply Program was issued last month and negotiations continue on the details of the arrangement.

The most ambitious of the water transfers instrumental to the California 4.4 Plan is that of the transfer of water from IID to the San Diego County Water Authority (SDCWA). The IID water transfer is encapsulated in a contract entered into with SDCWA in 1998. This contract contemplated that water uses within IID would be reduced so that a portion of IID's Colorado River entitlement could then be made available to the SDCWA and possibly to others. The reduction in water use would be achieved through the implementation of conservation measures, with the costs for such measures to be paid for by the SDCWA. This voluntary IID/SDCWA water transfer agreement was a landmark achievement, for which the IID Board received much-deserved praise.

The IID/SDCWA agreement did not, however, fit easily within the existing contracts with the Secretary of the Interior for the delivery of Colorado River water to California water agencies. These contracts establish a shared priority for IID and CVWD, with CVWD entitled to water IID does not put to beneficial use. These con-

tracts also limit the area within which the water may be put to use. Concerns were raised about the legal framework necessary to accomplish the IID/SDCWA water transfer and a period of intense negotiations began.

The first major breakthrough in bringing California parties together to support the IID/SDCWA water transfer was the Key Terms for Quantification Settlement Among the State of California, IID, CVWD and MWD (Key Terms), signed in October of 1999. The Key Terms agreement outlined water budget components for IID, CVWD and MWD, some of which would require that a portion of the water to be developed through conservation measures in accordance with the 1988 IID/SDCWA agreement would be provided to CVWD and to MWD.

The Quantification Settlement Agreement (QSA) and the Implementation Agreement.

Negotiations continued as the details of the Key Terms were fleshed out. After countless hours of negotiations in many locations, the dedicated efforts of negotiating teams from IID, CVWD, MWD, SDCWA, and the Department of the Interior bore fruit and two additional agreements were drafted: the Quantification Settlement Agreement (QSA) and the Implementation Agreement.

The effort devoted to the development of the draft QSA has been in many ways the twenty-first century equivalent of the effort devoted to the development of the Seven Party Agreement, in which the California water agencies, through difficult negotiations, reached consensus on recommendations to the Secretary of the Interior relating to entitlements and priorities to the use of Colorado River water. Environmental compliance was not, however, a hurdle facing the negotiators of the Seven Party Agreement.

The draft QSA is a cornerstone of the California 4.4 Plan. It represents an agreement among IID, CVWD, and MWD with respect to the use and transfer of Colorado River water for a period of up to seventy-five years. This is an agreement which will firm up existing water supplies for SDCWA and which will permit CVWD to reduce its use of diminishing groundwater supplies. The draft QSA contemplates that water from the canal lining projects will be used for the purposes of the San Luis Rey Indian Water Rights Settlement Act.

The development of the draft Implementation Agreement arose from the desire to fit the draft QSA into the existing Law of the River. Numerous legal issues surround the delivery of water in the manner contemplated by the draft QSA. Without relinquishing their various and differing legal positions, IID, CVWD, and MWD agreed to enter into the Implementation Agreement with the Secretary of the Interior.

The Implementation Agreement has as its primary purpose the effectuation of the water delivery arrangements contemplated by the QSA. The Implementation Agreement alters for a period of time the water delivery arrangements set forth in IID, CVWD, and MWD contracts with the Secretary, entered into in the 1930's pursuant to Section 5 of the Boulder Canyon Project Act. Thus, in the Implementation Agreement the Secretary agrees that for the term of the QSA, a portion of the water which otherwise would have been delivered to Imperial Dam for use within IID may now be delivered, either at Imperial Dam or at Lake Havasu, for use by CVWD, MWD, and SDCWA.

Hundreds of thousands of acre-feet could be transferred under the QSA when implemented through the Implementation Agreement. Such a substantial movement of water cannot proceed without an equally substantial commitment to environmental compliance. As difficult as the development process was for the water budget components in the draft QSA, the challenges the parties have faced in achieving environmental compliance now appear to be equally difficult.

Environmental Compliance, and the Salton Sea

A draft EIS has been developed for the IID water transfer and a separate draft EIS for the Implementation Agreement. ESA requirements for the IID water transfer are being addressed through IID's proposed Habitat Conservation Plan (HCP). ESA consultation for the Implementation Agreement has been completed through a Section 7 consultation which addressed potential impacts of water transfers to the mainstream of the Colorado River.

The draft HCP proposed by IID focuses considerable attention on the Salton Sea. The Salton Sea provides habitat for a variety of species, several of which are listed as either endangered or threatened species. The IID water transfers will result in less water draining to the Salton Sea. Complicating the environmental compliance is the scientific fact that with or without the IID transfers, the Salton Sea will become more and more saline and thus less and less hospitable to threatened and endangered species.

Congress provided an independent means to address Salton Sea issues in the Salton Sea Reclamation Act of 1998. The Department believes that the IID/San Diego transfer, as part of the California 4.4 plan, should not be delayed by deliberations about the future of the Salton Sea. A fundamental step in determining which course of action Congress will take with respect to the Salton Sea is a complete understanding of the Salton Sea's hydrology and of the alternatives available, together with associated costs, for prolonging its existence. The Salton Sea Authority and the Bureau of Reclamation are developing an Alternatives Report to address these issues.

Publication of the Alternatives Report will occur once Interior is satisfied that it is accurate and complete. Cost estimates presented in the report are being refined to ensure that the data presented for each alternative is not misleading. The future long term existence of the Salton Sea is a monumental issue which rests with Congress and the State of California.

IID's proposed HCP, intended to satisfy both the requirements of ESA and CESA for the water transfers envisioned by the QSA, has raised concern because of the potential impact on Salton Sea. Two mitigation options were proposed in IID's HCP, the "pond option" and the "fallowing option."

The Pond concept consist of constructing and operating a fish hatchery to stock fish in the Salton Sea and constructing up to 5,000 acres of ponds to produce or receive hatchery received fish to feed fish-eating birds. The California Department of Fish and Game (CDFG) notified IID and SDCWA in late May of this year that in the judgment of CDFG the pond option did not "minimize and fully mitigate the impacts of the transfer as required by the California Endangered Species Act." This CDFG notification brings the second option identified in IID's HCP out into the spotlight: the fallowing option.

The fallowing option does not use system or on-farm water efficiency measures. The fallowing option would instead involve the voluntary fallowing of a substantial number of acres within IID, with the water savings to be available for transfer in accordance with the QSA as implemented through the Implementation Agreement.

Fallowing is an option, developed to obtain approval for an HCP, not a requirement. Fallowing involves retiring farm land for a period of time and has raised concerns among residents of Imperial County with respect to its potential adverse effects on the local economy. Various approaches may be available to address these economic concerns, including approaches within the water transfer framework agreed to by IID and San Diego. We are committed to working with IID and the residents of Imperial County to address their concerns. Fallowing was not the original approach contemplated for the IID/SDCWA transfer agreement and has not yet been fully analyzed nor discussed within IID.

An HCP will, however, provide substantial benefits to IID. For example, if IID elects to continue with the HCP process, IID may ultimately receive valuable assurances with respect to the impacts of its future water use on threatened and endangered species. Habitat conservation plans provide assurances that the mitigation measures set forth in the plan will be all that is required with respect to the needs of species currently identified as threatened or endangered and with respect to the needs of those yet to be listed. The decision to go forward with a fallowing option—a voluntary decision—is a decision to work through the difficult issues associated with fallowing in order to reap the significant benefits of long-term protection under the environmental laws. If the decision is made to adopt the fallowing option, the HCP assurances may be tied to implementing this decision.

If an HCP cannot be developed, we believe that the requirements of the Federal ESA can be met through Section 7 of the ESA so that the IID water transfers can proceed. However, because a Section 7 consultation focuses only upon threatened and endangered species presently listed under Federal law, fewer species will be addressed than in a Section 10 HCP process. Although we prefer to complete an HCP, Interior intends to move forward with a Section 7 consultation if it becomes clear that the HCP process will not conclude in sufficient time to permit the execution of the QSA by December 31, 2002.

For years now, in efforts which have bridged two administrations, Interior has devoted enormous resources to working with the California water agencies in a cooperative process to develop water budgets and water transfers acceptable to all to bring California's use of Colorado River water within the 4.4 million acre-feet limitation decreed for a year of normal water supplies. To abandon these cooperative efforts at a time when drought conditions currently exist in the Colorado River system is to invite disaster.

River Management in the Absence of a California 4.4 Plan

If the QSA is not executed by December 31, 2002, the Interim Surplus Guidelines provide that surplus determinations will be made on a much more restrictive standard. Specifically, section 5(B) of the Guidelines provides:

It is expected that the California Colorado River contractors will execute the Quantification Settlement Agreement (and its related documents) among the Imperial Irrigation District (IID), Coachella Valley Water District (CVWD), MWD, and the San Diego County Water Authority by December 31, 2001. In the event that the California contractors and the Secretary have not executed such agreements by December 31, 2002, the interim surplus determinations under Sections 2(B)(1) and 2(B)(2) of these Guidelines will be suspended and will instead be based upon the 70R Strategy, for either the remainder of the period identified in Section 4(A) or until such time as California completes all required actions and complies with reductions in water use reflected in Section 5(C) of these Guidelines, whichever occurs first. 66 Fed. Reg. 7782 (Jan. 25, 2002)

The Department has not made a final decision regarding the exact nature and timing of actions or combinations of actions that it will take regarding California's use of Colorado River water in the event that the QSA is not executed by December 31, 2002 and the Guidelines are suspended according to its terms. However, as we have stated repeatedly in the past, the Department is fully committed and prepared to take whatever steps are necessary to ensure that California's use of Colorado River water fully complies with the requirements of the Decree of the United States Supreme Court in *Arizona v. California*. As fifteen members of California's Congressional delegation stated in a May 23, 2002 letter to Secretary Norton, "The Interior Department is responsible for enforcing the deadlines built into the Federal Interim Surplus Guidelines, which are intended to keep the California Plan on schedule." The Department acknowledges and accepts this responsibility. Due to the complexity and importance of these issues, the Department will be publishing a Federal Register notice that will identify concerns that the Department has received from lower basin users outside California in the event that the Interim Surplus Guidelines are suspended according to the provision cited above.

We all know that California's use of Colorado River must comply with the Law of the Colorado River. This obligation includes both the requirement that California's use of Colorado River water may not exceed the quantity of water available to it under the Law of the River, and the independent requirement that any and all water available to California be placed to beneficial uses in accordance with applicable provisions of state and Federal law.

Conclusion

Absent completion of the Quantification Settlement Agreement, the contemplated water transfers cannot proceed. Absent these water transfers, the California 4.4 Plan will fail. If the Quantification Settlement Agreement is not signed by December 31, 2002, the interim surplus determinations, which currently permit the Colorado River Aqueduct to remain full, will be suspended. In such an event, the Secretary of the Interior will enforce the Decree in *Arizona v. California* and California may well suffer an abrupt and major reduction in Colorado River water supplies. While we believe that an HCP under section 10 of the ESA is the preferred approach to avoiding these alternatives, we also believe that section 7 consultation provides an appropriate mechanism for compliance with the Federal ESA. Under either approach, we must all work together in this critical year for the interests served by the Colorado River.

This concludes my testimony. I would be pleased to answer any questions you may have.

[An attachment to Mr. Raley's statement follows:]



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

MAY 31 2002

Stella Mendoza, President
Board of Directors
Imperial Irrigation District
333 East Barioni Blvd.
Imperial, CA 92251

Re: Response to Inquiry from General Counsel

Dear Ms. Mendoza:

I have recently received an inquiry from Imperial Irrigation District's General Counsel, John P. Carter, as to the Department's position in the event that there is a suspension of the Interim Surplus Guidelines. On this point the express provisions of the Interim Surplus Guidelines are clear:

In the event that the California contractors and the Secretary have not executed [the QSA (and its related documents)] by December 31, 2002, the interim surplus determinations under sections 2(B)(1) and 2(B)(2) will be suspended and will instead be based on the 70R Strategy

66 Fed. Reg. 7782 (Jan. 25, 2001).

In his inquiry, Mr. Carter also quotes from Senator Feinstein's May 21, 2002, letter to you wherein the Senator states that if the Interim Surplus Guidelines are suspended the Department could be forced to "take the water IID had planned to transfer, and there would not be any compensation." The Department has not made a final decision regarding the exact nature and timing of actions or combinations of actions that it will take regarding IID's use of Colorado River water in the event that the Guidelines are suspended. However, as I have stated repeatedly in the past, the Department is fully committed and prepared to take whatever steps are necessary to ensure that California's use of Colorado River water fully complies with the requirements of the Decree of the United States Supreme Court in *Arizona v. California*. As fifteen members of California's Congressional delegation stated in a May 23, 2002 letter to Secretary Norton, "The Interior Department is responsible for enforcing the deadlines built into the Federal Interim Surplus Guidelines, which are intended to keep the California Plan on schedule." The Department acknowledges and accepts this responsibility.

Stella Mendoza, President
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We all know that California's use of Colorado River water must comply with the Law of the Colorado River. This obligation includes both the requirement that California's use of Colorado River water may not exceed the quantity of water available to it under the Law of the River, and the independent requirement that any and all water available to California be placed to beneficial uses in accordance with applicable provisions of state and federal law.

I have spoken with Senator Feinstein, other members of the California delegation, and representatives of the State of California on numerous occasions to discuss these issues. Senator Feinstein's suggestion that IID is at risk if the QSA and the California 4.4 Plan are not implemented is certainly accurate. In fact, all of the users of Colorado River water in California are at risk if the California 4.4 Plan is not implemented on schedule. The Interim Surplus Guidelines allow California access to a greater quantity of Colorado River water than would otherwise be the case. If the requirements of the Guidelines are not met, California will no longer have the ability to access the additional water supplies made available to it under the Guidelines. Any wasteful water use practices within California would undoubtedly come under extraordinary scrutiny from all parties. And as you know, because no water user has the right to waste water, the enforcement of beneficial use requirements would clearly not require compensation.

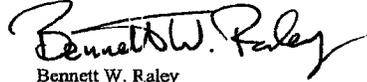
There is no doubt that the Senator fully grasps the seriousness of the situation - a situation which may lead to serious consequences for the urban and farming economies of southern California. The depth of her concern and understanding is apparent in her letter to you of May 21, 2002 and in her subsequent letter to the Imperial Valley Press dated May 25, 2002. Interior is fully supportive of the Senator's efforts to engage IID in a discussion of workable conservation-based alternatives, and in the absence of such alternatives, to focus on a workable fallowing approach, which should include provisions to provide an appropriate means to compensate those who bear its impacts.

It is also important to remember that the Secretary's obligations regarding the Colorado River are not limited to a consideration of circumstances in California. To the contrary, the Law of the Colorado River also incorporates the interests and rights of the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming, and international obligations to the Republic of Mexico under the 1944 Treaty. Consequently, decisions affecting the State of California's use of Colorado River water have far-reaching impacts which reverberate well beyond the boundaries of the Imperial Valley and, indeed, beyond the boundaries of the State of California. As such, we will continue to provide, as appropriate, our views on these critical Colorado River issues to members of Congress.

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Finally, as I and others have said many times throughout this process, we stand ready to work with IID and the other California water agencies to seek constructive solutions to the difficult issues associated with execution of the QSA. It is in the interest of all of California's users of Colorado River water, including IID, to avoid the consequences of a suspension of the Interim Surplus Guidelines, and the subsequent debate regarding the appropriate circumstances for reinstatement.

Sincerely,



Bennett W. Raley
Assistant Secretary – Water and Science

cc: Senator Dianne Feinstein
Secretary Mary Nichols

Mr. CALVERT. Mr. Nastri, you are recognized.

**STATEMENT OF WAYNE NASTRI, REGIONAL ADMINISTRATOR,
U.S. ENVIRONMENTAL PROTECTION AGENCY REGION IX**

Mr. NASTRI. Thank you, Mr. Chairman.

I want to thank you for giving us the opportunity to come here today and to testify on these important matters. As requested, I'll be providing remarks today concerning air quality, and what our role is in this entire process with regard to the Salton Sea restoration.

In the early 1990's large-scale episodes of fish and bird kill occurring in the Salton Sea underscored the need to address deteriorating environmental conditions in the sea. Congress through EPA provided \$13.5 million in funding to address various concerns and to try to gain a limited understanding of some of the conditions relevant to the sea. Most of these studies will be focused on water quality. There were a couple of symposiums where air quality issues did come up. Our role when it comes to the Salton Sea is to provide support and to conduct environmental reviews of the projects related to California's use of the Colorado River water.

We recognize California 4.4 plan has very positive and admirable goals, and we certainly recognize that California must reduce its use of Colorado River water. And as you're all well aware, there are several strategies and water transfer mechanisms that are being proposed.

Implementation of these proposed activities that may affect the amount of water reaching the sea, to both Imperial and the Salton Sea itself, I'm going to address now specifically. We believe that by reducing the water content you'll most likely reduce the sea levels, and thereby expose lake bed sediments. These sediments may or they may not become airborne. We can't tell with certainty to what extent that may or may not occur. And in fact, as Congresswoman Bono noted, the experience that we have is based on Mono Lake and Owens Lake basin. And it's important to note that the geologic,

the soil conditions, the meteorological conditions, the rainfall, they're all different. And so we necessarily can't assume that the conditions that exist in those conditions will be the same conditions that exist here. But nonetheless, that does serve as an indicator of what potentially might happen. And in those particular areas, again, as Congresswoman Bono noted, the primary concern is PM-10. And the Owens Lake basin does have the highest PM-10 emissions in the United States. Recent estimates put those emissions up at 400,000 tons annually.

These conditions were in part—to what extent we can't exactly say, but certainly to some extent—impacted by the diversion of water. The particulate that become airborne are extremely of concern to us given the extensive data that exists on PM-10 potential health implications, particularly to the young, to the elderly, to those with sensitive populations. I think this area in particular has a great amount of data in support of air quality impacts, particularly given the proximity and the actual inclusion within the South Coast Air Quality District.

With regards to water quality activities, the regional water quality control board, State of California actually does the assessment and establishment of both water levels in terms of levels for nutrients, for microbacteria. All these would be developed in what's called the TMDL, the total maximum daily load limit. And once these TMDLs have been developed, the state will then develop implementation plans in order to make sure that the load-bearing capability isn't in excess with the designated use.

As Mr. Raley has done in terms of submitting written testimony for the record, we have also submitted written testimony for the record, and I ask that be made part of the record.

[The prepared statement of Mr. Nastri follows:]

**Statement of Wayne Nastri, Regional Administrator,
U.S. Environmental Protection Agency, Region 9**

Good morning, Chairman Calvert and Members of the Subcommittee. My name is Wayne Nastri. I was appointed Regional Administrator for the United States Environmental Protection Agency Region 9, our Pacific Southwest office, in October 2001. The Office is responsible for Federal environmental issues in Arizona, California, Hawaii, Nevada, the Pacific Islands, and for 147 Federally recognized Indian Tribes. Thank you for giving me the opportunity to provide testimony relating to the lower Colorado River and Salton Sea and to our role in the restoration effort at the Salton Sea. As you requested, I will also be providing some remarks today regarding potential air quality impacts associated with the myriad activities impacting the Salton Sea.

The lower Colorado River provides a finite annual amount of water that is divided among agricultural, urban and environmental needs in an arid area that traverses 7 states, 35 Indian Tribes and two countries. Any change in that distribution may have far-reaching ramifications that impact all users of that water. Working together with other Federal, state and local agencies, EPA contributes our best efforts to identify workable, cost-effective solutions to that challenge. Our commitment is to work with agencies such as the Bureau of Reclamation and the Salton Sea Authority until those solutions are identified and implemented.

EPA's role in the Salton Sea and lower Colorado River region is active and multifaceted. At this time I would like to highlight our three main areas of involvement.

1. Salton Sea Restoration

In the early 1990's, large scale episodes of fish and bird kills underscored the need to address deteriorating environmental conditions at the Salton Sea. The late Congressman Sony Bono spearheaded the effort to draw national attention to this unique aquatic resource. In 1997, Congress provided EPA \$5 million to identify baseline conditions at the Sea. Based on those studies and in recognition of the com-

plexity of the issues, in 1998 Congress appropriated an additional \$8.5 million to EPA for scientific and engineering studies and pilot projects. The studies and projects were coordinated by the Salton Sea Authority. Engineering pilot projects to reduce salinity are underway; the potential commercial use of a highly productive fishery has been explored; a bioremediation study for the reduction of nutrient loadings to the Sea is about to begin. Three workshops brought experts in water and sediment chemistry, eutrophication and air quality together to produce white papers. This work has provided a sound basis for further investigations and for the development of alternatives being considered to improve conditions at the Salton Sea. Throughout the process, EPA has worked to ensure the use of appropriate scientific methods and cost effective approaches.

2. Environmental Review of Projects Related to California's Use of Colorado River Water

Concurrent with addressing the issues relating to the Salton Sea, California must reduce its use of Colorado River water to achieve the amount apportioned to it mandated by the Law of the River. The Department of Interior, state and local agencies in California are proposing several strategies and water transfers that will allow California to meet its goal of reducing its dependence on Colorado River water to 4.4 million acre feet in years of normal supply. Some of these actions require Federal environmental review. The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) and an opportunity for public review and comment. EPA's role is to review the EIS's (i.e., the State of California Colorado River Quantification Settlement Agreement, the Department of Interior's Implementation Agreement for the California Quantification Settlement Agreement, the Imperial Irrigation District/San Diego County Water Authority Water Conservation and Transfer Project) related to those actions.

Proposed water conservation activities, water management strategies and the transfer of Imperial Valley water to San Diego will reduce the amount of water reaching the Imperial Valley. The result will be less water reaching the Salton Sea. Lower Sea levels will expose lake bed sediments that may become airborne. We cannot predict with confidence what the potential emissions will be from the newly exposed lake bed at the Sea. From our experience at Mono Lake and the Owens Lake basin, which I will talk about in a moment, we know that windblown dust from an exposed dry lakebed can cause high levels of PM-10. PM-10 is the Federal health standard for particulate matter smaller than 10 microns in size. Inhalable particulates in this size range over certain ambient concentrations may have serious health effects for people, especially children, the elderly, and those with respiratory illnesses. Our concern regarding airborne impacts from the Salton Sea is based on our experiences at Mono and Owens Lakes; however, we have no information to predict the degree of air impacts from the Salton Sea.

a. MONO LAKE

Mono Lake is located in Mono County in eastern-central California. Since 1941, portions of the water from four of the major tributary streams have been exported before reaching the lake. From 1974 through 1989, an annual average of 83,000 acre-feet of water was exported from the Mono Basin.

Over the past 50 years, the water level of Mono Lake has dropped by approximately 45 feet, causing the exposure of approximately 20 square miles of lakebed and an emissive area of 9 square miles. As the lake receded, 24-hour PM-10 readings increased at one monitoring site out of many in the area, to 981 $\mu\text{g}/\text{m}^3$ in 1993. The 24-hour standard is 150 $\mu\text{g}/\text{m}^3$. Today, the State of California is refilling Mono Lake to its historical level, and although the lake has not yet reached that level, the PM-10 levels are declining.

b. OWENS DRY LAKE BED

Owens Lake is located in Inyo County in eastern-central California. In 1913, the Los Angeles Department of Water and Power (LADWP) completed an aqueduct system and began diverting the waters of the Owens River to the City of Los Angeles. By 1930, these diversions had drained Owens Lake almost completely dry.

The Owens dry lake bed is approximately 70 square miles. The emissive area is approximately 35 square miles. Strong winds over the dry, alkaline bed of Owens Lake have produced the highest measured concentrations of PM-10 ever recorded in the US: levels as high as 20,750 $\mu\text{g}/\text{m}^3$ were measured at the lake. The reading represents the highest 24-hour average at one monitoring site out of many around the lake. Annual PM-10 emissions from Owens Lake may exceed 400,000 tons, and dust transported from the Lake can result in violations of the 24-hour PM-10 NAAQS in the town of Ridgecrest, 150 miles to the south. The dust from the lake bed contains naturally occurring carcinogenic compounds, including arsenic, nickel,

and cadmium. EPA has not conducted a study to determine if there is a cancer risk. The State Implementation Plan includes cost effective control measures, such as shallow flooding, managed vegetation, and gravel cover, to minimize dispersal of PM-10 and bring the area into attainment.

c. *SALTON SEA*

The conditions at Mono Lake and the Owens Dry Lake are not the same as those at the Salton Sea in their climate and soil characteristics. However, the potential of exposing 100 square miles of once previous lake bed without any mitigation raises concerns. Factors that affect potential PM-10 air quality problems include how the lake crusts over after the water recedes, how rain, drying and other forces, such as human activities, might disturb the crust, and how winds affect emission patterns on the dry lake bed. In addition, the soil from the lake bed may contain toxic materials. These could be naturally occurring, as in the case of Owens Lake, as well as potential contaminants from agricultural runoff. The congruence of these factors may cause higher emissions in some areas compared to other locations in the vicinity.

There is some indication that the existing north shore of the Salton Sea might be presently emitting PM-10 into the air. To understand these potential impacts, the soil type and characteristics of the potential new shoreline should be assessed. Models to assess the level at which violations in PM-10 NAAQS may occur should also be employed. And finally, potential control measures should be evaluated.

We should use the lessons learned at these experiences at Owens and Mono Lake to insure that changes to the level of the Salton Sea do not cause any exceedences of the PM-10 standard and do not have negative impacts on public health.

3. *Water Quality*

The waters of the area, Salton Sea, Alamo, New Rivers, are all impaired, that is, they do not meet the water quality standards for their designated uses. Under the Clean Water Act, the State of California and EPA must identify the pollutant of concern and how much of it may enter the water and still achieve the overall water quality standards. The State and EPA must identify the Total Maximum Daily Load (TMDL) for a pollutant of concern and California must implement the program based on the TMDL. The California Regional Water Quality Control Board, Colorado River Basin, has approved the sediment load allocations for the Alamo River, and the pathogen and sediment loads for the New River. Implementation of the TMDLs by California will be forthcoming.

EPA with other agencies, support the local tribal interest for maintaining water quality in the area. The consortium of tribes in Coachella Valley (Morongo, Agua Caliente, Torres Martinez, Twenty Nine Palms and Augustine Bands of Cahuilla Indians) are concerned about the effect of Coachella Valley Water District's proposed use of Colorado River water to recharge the aquifer from which the tribes take their drinking water. The tribes are concerned about the potential aquifer contamination by perchlorate, which has been detected in the Colorado River water.

4. *Other EPA Activities in the Area*

In addition to the three activities I've just highlighted, other EPA programs in this area include the joint State of California and EPA effort to control the perchlorate movement draining into Lake Mead and the Lower Colorado. Another long-term commitment is our border water infrastructure program.

EPA's border water infrastructure program provides technical assistance and grant funds for high priority water and wastewater infrastructure projects to communities and Indian Tribes within the 100 km north and south of the US/Mexico Border. As you know, one of the local tributaries to the Salton Sea is the New River. The New River is polluted from multiple sources in the U.S. and Mexico.

One of the sources is the mixture of raw and treated sewage from Mexicali, Mexico. EPA and other Federal and state agencies are working with Mexico to address the sewage situation and improve water quality in the New River. EPA has provided grant funds to improve the collection and existing treatment systems in Mexicali; however, there is still much work to be done. It should be noted that as we assist Mexico in improving the level of treatment of its sewage, Mexico may choose to keep its effluent for non-potable uses. The result may be less water in the New River and ultimately the Salton Sea; however, the water that does reach the Sea will be of better quality.

In closing I would like to reconfirm our commitment to work with the Federal, state, local and tribal agencies that are undertaking the challenge posed by the competing needs for the lower Colorado River water. Coordination with the tribes is a necessity due to the presence of tribal trust assets which could be affected. We have made great strides in identifying the issues that need to be addressed and how they

are interrelated. My staff met recently with the representatives from the Bureau of Reclamation and the Imperial Irrigation District to work on ways to address these challenging issues. Thank you very much for extending an invitation to me to provide testimony here today. I will be happy to answer any questions that the Subcommittee members may have. Thank you.

Mr. NASTRI. I understand that we have limited time, so I would like to stop my comments at this point and answer any questions that you may have.

Mr. CALVERT. Thank you, gentleman.

Mr. Hannigan?

**STATEMENT OF THOMAS M. HANNIGAN, DIRECTOR,
CALIFORNIA DEPARTMENT OF WATER RESOURCES**

Mr. HANNIGAN. Mr. Chairman and members of the Committee and distinguished guests, thank you for inviting us to California to participate in today's hearing on the draft Colorado River Water Use Plan.

My testimony will highlight the state's perspective on execution of the proposed Quantification Settlement Agreement. California's continued receipt of benefits provided by interim surplus guidelines is contingent, as you know, upon the QSA execution by the end of 2002. It is critical that these benefits remain in place. Without them, urbanized Southern California would lose about half of its historical Colorado River water supplies. As Subcommittee members have been briefed in previous Colorado River hearings, the guidelines provide a soft landing for California agencies while they reduce their use of river water at set forth in the draft plan. The guidelines additionally provide the benefits of surplus declarations to urban water users in Southern Nevada and Arizona. The State of California is a signatory to the QSA. Our role is primarily one of regulatory approval in the California Environmental Quality Act and the California Endangered Species Act process. The measure approvals needed our Department of Fish and Game and environmental review of QSA related impacts and the state water resources control board approval of the proposed Imperial Irrigation District-San Diego Water Authority transfer.

Additionally the legislature has taken up revisions to California's Fully Protected Species statutes; revisions that, although not specifically identified as conditions precedent in the QSA, would further enable QSA implementation and ongoing operations of Colorado River facilities.

As Subcommittee members are probably aware, public comment areas have closed to draft environmental documentation associated with the QSA. The Department of Fish and Game has already notified IID as to the biologically acceptable alternatives for carrying out the proposed IID-San Diego transfer. And a joint Fish and Game and U.S. Fish and Wildlife Service letter is being finalized. Their biological findings will be used by the board in its decision on the transfer.

Extensive testimony was presented during the board's hearing regarding the transfer's potential adverse impacts on the Salton Sea. The Salton Sea is an important and unique environmental resource in Southern California, supporting numerous and diverse resident and migratory bird species. This administration will not

approve an action that further jeopardizes the sea's already fragile ecosystem. Rather we are committed to working with transfer proponents to insure that the transfer can go forward in a manner that does not adversely impact the sea and the surrounding communities.

While the state actions specifically required to enable local agency implementation of the QSA are limited, the Davis administration is committed to doing everything possible to ensure that the interim surplus guidelines remain in place. We fully recognize the seriousness of failing to execute the QSA by the end of the year. It is unrealistic to expect that interior and the other basin state will allow California to continue receiving Colorado River water via the guidelines surplus declarations.

The Colorado River basin is experiencing drought conditions. The Governors of five of the basin states have declared drought emergencies or requested Federal designation at disaster areas. I cannot imagine that these states would do other than demand the Secretary enforce the guideline terms given present and hydrologic conditions.

In closing, I'd like to stress that California has provided substantial financial assistance for Colorado River water use plan implementation to the local agencies, as well as other financial assistance from recent bond measures for actions such as ground water storage and water recycling or conservation. I want to reiterate that we are committed to working with the local agencies to ensure that the benefits provided by the guideline remain in place. And I'd also, Mr. Chairman, like to request that I may submit my written testimony for you.

Mr. CALVERT. No objection. So ordered.

Mr. HANNIGAN. Thank you.

[The prepared statement of Mr. Hannigan follows:]

**Statement of Thomas M. Hannigan, Director,
California Department of Water Resources**

Mr. Chairman and Members of the Subcommittee, thank you for inviting California to participate in today's field hearing on implementation of California's draft Colorado River Water Use Plan. I am pleased to be here this morning on behalf of Governor Davis.

My testimony today will highlight the State's perspective on actions associated with the local water agencies' execution of the proposed Quantification Settlement Agreement. As you know, California's continued receipt of the benefits provided by the Department of the Interior's Interim Surplus Guidelines is contingent upon execution of the QSA by the end of 2002. It is crucial that these benefits remain in place. Without them, urbanized Southern California would lose about half of its historical Colorado River water supplies.

Background

California's draft Colorado River Water Use Plan describes water management actions to be taken in the near-term to reduce California's use of river water, and identifies other actions that need further evaluation before they can be implemented. Actions identified for near-term implementation by the local agencies involved in Water Use Plan preparation include lining the remaining unlined sections of the Bureau of Reclamation's All-American and Coachella Canals, implementation of the proposed Imperial Irrigation District-San Diego County Water Authority transfer, and development of groundwater conjunctive use and storage projects. The Plan also describes actions that may be taken by individual water retailers or water users, especially within urbanized Southern California, to reduce their dependence on imported water supplies. These actions, including water conservation, water recycling, and groundwater management projects, are eligible for State financial assistance from voter-approved bond measures. DOI adoption of the Interim Surplus

Guidelines for the Colorado River system and development of certain water administration/water accounting procedures are also key components of the Plan.

As members of this Subcommittee are aware, the Interim Surplus Guidelines describe how USBR will manage Lake Mead releases over the next 15 years. The Guidelines, which became effective last year, have been characterized as providing a "soft landing" for California agencies while they carry out actions to reduce their use of river water as described in the draft Plan. The Guidelines allow a greater fluctuation in reservoir operating levels within the historical range of Lake Mead operations, providing increased certainty that Metropolitan Water District's Southern California service area will continue to experience a full Colorado River Aqueduct through Federal declarations of surplus conditions. The Guidelines additionally provide the benefits of surplus declarations to urban water users in Southern Nevada and Arizona.

The Guidelines contain incentives for California to implement the draft Water Use Plan in a timely manner. They provide that if California does not meet specified water use reductions during the 15-year period, Lake Mead operations will revert to their historical mode of avoiding flood control spills and MWD will bear the associated risk of shortages to its urban service area. The Guidelines are further contingent upon execution of the proposed Quantification Settlement Agreement developed by the California local water agencies who are also appearing before the Subcommittee today. If the QSA and its related agreements are not fully executed in their final form by December 31, 2002, the benefits to California of the Interim Surplus Guidelines will be suspended until such time as the agreements are completed, and the reliability of Southern California's water supplies will be compromised. More than half of Southern California's imported water supplies come from the Colorado River. A half-empty Colorado River Aqueduct would have a devastating impact on the region's economy and employment base.

The proposed QSA was developed by the local water agencies as an outgrowth of preparing the draft Water Use Plan, in recognition that new Colorado River water management practices, such as proposed agricultural to urban water transfers, could not be implemented without further quantification of the agencies' rights and priority to use of Colorado River water. The now-in-force Seven Party Agreement of 1931 makes only a partial division of California's interstate apportionment of Colorado River water. Most importantly, the 1931 agreement does not specifically quantify the 3.85 MAF of water contained in its first, second, and third priorities and allocated to the agricultural agencies, in particular the division of third-priority water among the agencies. The agreement also does not set forth water operations or accounting procedures to be used for its administration.

The proposed QSA is an over-arching agreement that incorporates water budgets associated with Plan implementation and links together other separate agreements associated with elements of the Water Use Plan. These other agreements include, for example, ones for the IID-SDCWA transfer and ones for the agencies' water acquisition arrangements for implementing the water budgets. The QSA further identifies specified conditions precedent for its implementation, including completion of the California Environmental Quality Act and National Environmental Policy Act review processes, acquisition of environmental permits and approvals (such as those associated with the California Endangered Species Act and Federal Endangered Species Act), and State Water Resources Control Board approval of the proposed IID-SDCWA transfer.

The process associated with local agency execution of the QSA and related agreements entails approval of the agreement package by the agencies' boards of directors, by which time the agencies must have completed necessary environmental and regulatory compliance actions. Within the past year, three major environmental documents directly associated with QSA implementation were released for public review—a programmatic document for the QSA itself, a document for the proposed IID-SDCWA transfer, and document for water operations and accounting measures needed for the Bureau's participation in QSA implementation. With closure of the public comment periods on these draft documents, the agencies can now prepare responses to the comments. The SWRCB began its hearing on the proposed IID-SDCWA transfer in April, and will issue its decision after reviewing the comments on the environmental documentation. Additionally, the Legislature has taken up revisions to California's fully protected species statutes—revisions that, although not specifically identified as conditions precedent in the QSA, would further enable QSA implementation as well as ongoing operations of Colorado River facilities. The Davis Administration supports Senator Kuehl's efforts in SB 482 to mesh the fully protected species concept with CESA provisions.

State of California Actions Required for Implementing the QSA and Interim Surplus Guidelines

Continuation of the benefits provided by the Interim Surplus Guidelines is contingent upon the local agencies' execution of the QSA. The State is not signatory to the QSA. The State actions specifically required for QSA implementation are associated with various approvals needed by the local agencies. The California Department of Fish and Game is responsible for environmental review of QSA-related impacts, and has been working closely with the U.S. Fish and Wildlife Service to coordinate comments on pending environmental documentation and CESA/ESA incidental take permits. Avoidance and mitigation of Salton Sea impacts are of most immediate importance in terms of timely QSA implementation. CDFG has formally notified IID as to the biologically acceptable alternatives for carrying out the proposed IID-San Diego transfer, and a joint CDFG/U.S. Fish and Wildlife Service letter expanding on this finding is now being finalized. SWRCB will use the agencies' findings pursuant to CESA and ESA in its decision on the IID-SDCWA transfer.

Subcommittee members are probably aware of the extensive testimony that was presented during SWRCB's hearing regarding the IID-SDCWA transfer's potential adverse impacts to the Salton Sea. The Salton Sea is an important and unique environmental resource in Southern California, supporting numerous and diverse resident and migratory bird species. Mr. Chairman, I want to emphasize that this Administration will not approve an action that further jeopardizes the Sea's already fragile ecosystem. Rather, we are committed to working closely with transfer proponents to ensure that the transfer can go forward in a manner that does not adversely impact the Sea and the surrounding communities.

The only other State action specifically needed for QSA implementation is California Department of Water Resources approval of an exchange agreement between MWD and Coachella Valley Water District associated with the QSA water budgets. This agreement, in which MWD and CVWD exchange 35,000 acre-feet of Colorado River water supplies for a like amount of State Water Project supplies, is similar to an existing, long-standing agreement between the two agencies, and does not require new infrastructure. MWD and CVWD both already hold contracts with us for SWP supplies.

State of California Actions Facilitating QSA and Water Use Plan Implementation

While the State actions specifically required to enable local agency implementation of the QSA are limited, the Davis Administration is firmly committed to doing everything possible to ensure that the Interim Surplus Guidelines remain in place. State agencies have placed the highest priority on helping the local agency signatories of the proposed QSA with the regulatory reviews and approvals. The Department of Fish and Game, for example, has been meeting weekly with IID to work through environmental issues associated with the proposed transfer. SWRCB began its hearings on the transfer concurrently with the public review of draft environmental documentation, to ensure that the hearing process could be completed in ample time for QSA execution.

We fully recognize the seriousness of failing to execute the QSA by the end of this year. It is unrealistic to expect that DOI and the other Basin States would allow California to continue the excess use of Colorado River water provided for through the surplus declarations established in the Guidelines. The Guidelines, a joint proposal of all seven Basin States to DOI, have been in force for a year and a half. California's local agencies were extensively involved in developing the Guidelines and were aware of their requirement for having an executed QSA by the end of 2002. Present hydrologic conditions make compliance with the Guidelines' conditions even more critical. The Colorado River Basin is experiencing drought conditions. Last water year's inflow to Lake Powell was 59 percent of the long-term average. Forecasted Lake Powell inflow this water year is only 30 percent of average. Total Colorado River Basin reservoir storage is dropping to nearly 70 percent of capacity, approaching a low experienced only twice in the last quarter-century. This spring, the Governors of Wyoming, Colorado, Utah, New Mexico, and Arizona either declared drought emergencies or requested Federal designation as disaster areas due to drought. I cannot imagine that the other Basin States would not demand that the Secretary of the Interior hold California to the terms of the Interim Surplus Guidelines.

California has made substantial financial assistance available to the local agencies to assist in Water Use Plan implementation. Subcommittee members may recall the \$235 million in State general funds authorized for lining parts of the All American and Coachella Canals and for groundwater storage projects. CDWR has executed agreements with the local agencies making this funding available to them. The groundwater storage project being funded is MWD's Hayfield project, located

adjacent to the Colorado River Aqueduct at Hayfield Valley. The Hayfield project is already being implemented; the canal lining projects are at the design stage.

In addition to monies specifically targeted for Water Use Plan implementation, financial assistance provided by recent State bond measures will further help local agencies in Southern California reduce their reliance on Colorado River water. Statewide, the 1996 Proposition 204 made available \$60 million for water recycling loans/grants and \$25 million for groundwater recharge and water conservation loans, plus \$2.5 million for Salton Sea environmental studies. Proposition 13 in 2000 provided \$40 million for water recycling loans/grants, \$155 million for recharge and water conservation loans/grants, \$200 million for groundwater storage grants, and \$235 million for Santa Ana River watershed project grants that include groundwater reclamation/water conservation/water recycling. Last month, another water bond measure qualified for California's November 2002 ballot via the initiative process. If approved by the voters, this \$3.4 billion measure would provide additional funding to help local agencies reduce their use of Colorado River water.

We in California may be faced with the unusual and fortunate circumstance especially at this time of tight state budgets nationwide of having significant State bond monies available for actions such as groundwater storage or water recycling that will help local agencies reduce their use of river water. The soft landing provided by the Interim Surplus Guidelines is critical to providing Southern California water suppliers with the lead time necessary for putting the actions in place. We cannot risk the economic disruption that would occur if California were suddenly limited to its basic interstate apportionment of Colorado River water.

Conclusion

The challenge before the local agencies entails working through complicated institutional issues to achieve Water Use Plan goals, while at the same time being responsive to the agencies' communities. In the weeks and months ahead, I want to assure you, Mr. Chairman, that the Davis administration is firmly committed to working hand in hand with the local agencies to ensure that the benefits provided by the Interim Surplus Guidelines remain in place for California. Thank you for the opportunity to appear before you today. I look forward to answering any questions you may have.

Mr. CALVERT. Mr. Raley, obviously this document pretty much makes it official that something we've been talking about for some time, that the consequence of not executing this agreement by the end of the year is serious, and that—that if in fact the Department of Interior enforces 4.4 next year, that could have serious consequences on California, our water supply, our state economy, et cetera. Have you thought out how that would take place? Would it immediately take place? Would you do it over a period of time, in steps?

Mr. RALEY. Mr. Chairman, under the interim surplus guidelines, the actual action, if you will, with respect to operations of the Colorado River, is carried out through what's known as the Annual Operating Plan, or AOP process. That is currently under way. That process has very strong participation from the interested states, and other stake holders. It was started in May. The next meeting I believe with that process is in July. And I would anticipate that—I'm not certain but I would anticipate at the July meeting that we will have a further discussion of what we have internally referred to as a dual track AOP; in other words, one plan for operation of the Colorado River that assumes that the interim surplus guidelines remain in place because the QSA has been executed, and another one that plans for operations based on the suspension of the interim surplus guidelines. And it is in that process that the actual mechanisms will be worked out and proposed for the Secretary to adopt probably on December 31st.

Mr. CALVERT. Now, you're experienced with our friends in the upper and lower basin states such that they more than likely have little sympathy for California, is that a correct statement?

Mr. RALEY. Certainly are concerned. But I also want to say that the other states are intensely aware that the incredible progress that has transpired over the last decade. And they are very supportive of the soft landing approach, but cannot go any further than what was the deal—at least that's what we are hearing—deals articulated in the California plan.

Mr. CALVERT. And that deal wasn't easy to arrive at, I want to point out.

Mr. Nastri, on your testimony regarding—a number of years ago I was an intern for a congressman that represented this entire valley, many years ago, before Mary was born probably. And the subject then was fugitive dust in the Coachella Valley, I remember that. This was before—we certainly had a lot of golf courses back then but not as many as they do today. And the issue is still here. But it seems to be—I don't know if it's any less of an issue or the same, but it's certainly here today.

There's a lot of desert out there. And I wondered if EPA has done any investigations to say relative to what is out there, based upon dust is inherent in the desert environment, what the incremental increase in dust would be if in fact parts of the Salton Sea were exposed. Just as a way of putting that on record, has the EPA done any investigation in that area?

Mr. NASTRI. We have not done any investigation into that matter.

Mr. CALVERT. Is there any scientific information or study that has determined that there would be incremental increase, outside of that total information that has been obtained from other areas of the State of California?

Mr. NASTRI. Well, if you were to look at emissions from other areas of the State of California they would probably be very specific to that area. So the applicability, for instance, of the data that's been generated around Owens Lake, Mono Lake, while in the neighborhood of \$40 million has been spent over approximately a 20-year period, through the use of five air-monitoring stations, three meteorological stations. Data there has certainly been collected. But whether or not I would say it's applicable to this particular event, I would say that area speaks specific to itself.

Mr. CALVERT. I was kind of saying whether or not that area of the state, specifically Mono Lake or Owens Valley, which is very well-documented, would be relative to the Salton Sea. And that as far as I know, there have been no studies to indicate what or how much incremental dust would be created in the fact that parts of the sea were exposed.

Mr. NASTRI. There again, I'm not aware of any study that would define the extent based on exposure. Those are certainly studies that we would support and we think would be very useful in defining what an appropriate mitigation measure may be.

Mr. CALVERT. Thank you.

Mr. COSTA. Mr. Raley, a question and a comment. When you publish in July the two procedures that you explained earlier, I think it's very important not only how you explain the allocation

of water will take place if we in fact do meet the deadline of December 31st with the Quantification Settlement Agreement, but I think it's very important that you clearly illustrate what the allocation of water will be if in fact it is not met. This entry into the Federal Register I think is very important, as Congressman Calvert stated. This is the hamlet, in essence, it seems to me, and I think people—everyone clearly ought to know what the ramifications are in terms of the decreased availability of the water that will certainly occur if in fact agreement is not reached. It seems to me that, you know, there is not a thorough-enough understanding among many of our friends here in Southern California. Certainly the water interests and the leaders representing the various water agencies I believe understand that clearly, but I don't think there's enough grasping by the public and by the business communities and among the agricultural community and all of the other interests as to what will in fact take place if we're not successful. So I think a clear detailing of that in July, to provide the alternatives, is very important.

Mr. RALEY. Senator, that's absolutely correct that it's important that we do that. The meeting in July actually, because the development of the annual operating plan is somewhat of an interview process, there may not be and has not historically been the process where we've issued something. It's developed through dialog. But within that historic practice we will do our best to illustrate what the consequences of the other track of the AOP is. So we'll take that—and the people responsible for working that are sitting here today, Mr. Bob Johnson and his colleague in the upper Colorado region, Mr. Johnson sitting behind me and listening intently—and we'll do our best, sir.

Mr. COSTA. Well, I think the reduction of the allocation for the major water agencies in Southern California needs to be noted and the press needs to clearly understand what will result if we're not successful. And we all know that as legislators and community leaders the importance of water. As I said, it's the lifeblood of California. But unfortunately too often Californians take that for granted as long as, you know, you can turn on the tap and wash your car and water your lawn and maybe fill your pool. Unless we're in drought conditions or unless we're in flooding conditions, and we have the potential here for, in essence, a man-made drought to take place as a result of a lack of success. And so I think that needs to be clear.

My question to you is, on looking at pages of the Quantification Settlement, 112 and 113—and you probably don't—I don't know if you have it in front of you or not. If you don't, you can have my copy. There is a schedule that talks about wrapping up—and I think you're familiar with the schedule—for all the various programs with the Metropolitan Water District, Imperial Irrigation District, San Diego and Coachella. I think the entirety of the schedule is critical for the success. Certainly the Imperial-San Diego transfer is considered to be one of the major aspects of the schedule. I'm wondering whether or not the Department of the Interior believes that there's any flexibility as it relates to meeting our goals that are stated here in the succeeding years up to 2007, 2009, as to whether or not in your opinion and under the Quantification

Settlement Agreement it is absolutely required that the Imperial-San Diego transfer must go first or whether or not we could reach those goals by other elements of the plan under the schedule, if we're successful in meeting them in a timely fashion.

Mr. RALEY. Our interpretation and understanding of the guidelines is that the primary operative aspects with respect to California's reduction are the two separate and independent requirements of the execution of the QSA by the end of this year, as well as meeting the benchmarks of 2003, 2006, 2009, et cetera.

It is our understanding that right now California will be able to meet the 2003 benchmark because of some of the efforts that you referred to that have gone forward. And I want to commend everyone for that having occurred. And in fact California may well be able to meet the 2006 benchmark, although we're less certain about that.

So from our perspective, the critical elements are meeting benchmarks and the QSA. The exact order of the various measures and what takes place, there may be inherently some flexibility in how that's achieved.

Mr. COSTA. I think a lot of us are interested in exploring that flexibility and maybe we might want to have a further discussion at a later time as it relates to that, especially as you get prepared to present your report in July.

Last question for Mr. Hannigan, Mr. Chairman, having held the hands of all these parties over the last couple years, which some might argue are thankless tasks, I would like you to, in the most succinct terms you know how, tell us and the Committee—both Committees, I guess— what do you believe are the remaining obstacles to getting the signators on the Quantification Settlement, getting action, and what do you think we can do as representatives to assist you in that effort.

Mr. HANNIGAN. Senator Costa—

Mr. COSTA. It's an easy question.

Mr. HANNIGAN. Yeah, softball.

I think from the standpoint of the state legislature, a successful resolution of the Fully Protected Species Act and the CSA legislation would be extremely helpful. This hasn't been a tortuous task because over the period of time I've met some wonderful people and gotten to understand much better this issue of the Salton Sea and the Colorado River and how it relates. And finally, the remaining unresolved issues I think are obvious to almost everybody in this room, but they center around the Salton Sea and how we deal with it. It's not an issue that was intently discussed at the time of the negotiations that led to the QSA. There was discussion, certainly. But probably we didn't realize that we would come to this juncture.

There are numerous agreements behind the QSA. The number is somewhere in the neighborhood of 32. And there's been a lot of work—this has been alluded to earlier— completed. But this remains the major unresolved issue for us.

And yes, we have a time line because of the impacts of losing the interim surplus criteria, water. But I think we have to focus our attention on solving this within that time line. I would hold out hope that there is some kind of discussions with other basin states and with the Secretary. But I think we have to assume that the

time lines that are in the interim surplus criteria are going to be adhered to and we have to find a way to meet them.

Mr. COSTA. But the issues are linked certainly, but the Quantification Settlement Agreement as you mentioned did not include as a part of it that we would have a resolution to all of the issues surrounding the Salton Sea as we looked at the deadlines and all the other aspects of it. And so it seems to me we've got to figure out a way and have some understanding if we are willing to continue to work on those issues surrounding the Salton Sea, that certainly Congresswoman Bono and Congressman Hunter and others are concerned about, and so are Senator Kelly and Senator Battin. I mean, we ought to focus and do everything we can. But I also don't believe that in my view from my knowledge that we have a lot of the answers at this point in time, or solutions to the issues surrounding the Salton Sea?

Mr. HANNIGAN. Well, the QSA implementation doesn't require solutions to the Salton Sea, but it requires us to implement our negative impacts to the Salton Sea. And maybe we transpose those two efforts. As the Chairman and Congresswoman Bono are aware, there has been an effort in Congress to come up with a plan for preserving the Salton Sea. It's slipped its time lines, and has posed some impact on this effort. All along the California agencies assumed that we would be responsible for the impacts that the transfer had on the sea, not a full implementation of a solution to the sea. And when we got there, we found that it wasn't that easy to identify specific impacts without talking about the total resolution of the sea. And we just frankly have gotten bogged down with it. I mean, changing the legislation, the law in California is helpful, but that in and of itself isn't going to solve it. We need—we need to be able to think, as some would describe, outside the box. And I know there will be testimony later—I forget which of you, maybe the Congresswoman Bono suggested the “F” word, “fallowing.” And that's the concept that has of late been discussed in many of these meetings. And hopefully, we'll get that in a more comprehensive way than we have to date. I realize there is opposition, there's people who have strong views on whether or not to do it. But I think it's something that we need to explore. Here again, we don't have a lot of time.

Mr. COSTA. Right. Thank you, Mr. Chairman.

Mr. CALVERT. Thank you.

Mrs. BONO. Thank you, Mr. Chairman.

First of all, Mr. Raley, how old is your daughter?

Mr. RALEY. She's 14—

Mr. CALVERT. Teenager.

Mrs. BONO. That's what I was afraid of.

Mr. RALEY. She's 14, and has her father's personality flaws.

Mrs. BONO. I want to thank you all for being here today and for focusing your attention on all of these issues that are surrounding the QSA. I want to thank the audience here today because this is obviously receiving a lot of heightened attention lately, and unfortunately that's because we're at a critical juncture.

And you know, I've listened to everybody so far, and we need to break this down a little bit and make it simple again. We're short of water. If we move water from one place to another, somebody is

going to pay somehow. That's what it's all about. I mean, we can talk numbers and page numbers and all these different things, but breaking it down and simplifying it, really for me anyway, is the easiest way to go.

And I don't believe we've addressed who is going to pay. And I know early on when the water districts came to me with the idea of a legislation, it was entirely focused on water. And we are basically asking our constituents in the Coachella Valley, I'm asking my constituents to choose between air quality and water quality. Which do you want, do you want a hundred thousand more acre-feet of water in the aquifer or do you want to breathe what could perhaps become the dustiest air in the United States. And that's the place I was put in. And I represent people who breathe air and all drink water too. So in my view it's always been a matter of looking at comprehensive policy that addresses all of these.

And I would say that since 9/11, if we've learned nothing else, we've learned that Federal agencies do not talk to one another. And I hate to bring that up in this case, but the EPA hasn't worked with the Interior on this.

We've talked about moving the water, but we have not talked about the mitigating consequences. I think if you're talking about moving water, you look at Owens Valley or Mono Lake, you know what's going to happen. Why aren't we addressing those things? Why haven't we been? And if we've made one mistake—and perhaps Assemblyman Kelly would point it out—when we—or when the Salton Sea Authority was founded, we were perhaps too narrow in the charter. And we said “Save the sea.” And to some people that means one thing. To other people it means something else. To me it means save the region. And Tom Kirk and those on the Salton Sea Authority worked very, very diligently in saving the sea. But it is a much larger problem than that. And I even believe the saving-the-sea thing needs to be tailoring it to this a little bit more.

And I am not opposed to redefining the Salton Sea. And I take a little bit of issue with the comment of yours in written testimony, Mr. Raley, where you say, “The future long-term existence of the Salton Sea is the monumental issue which rests with Congress and the State of California.”

And it seems the Administration likes to frame the Salton Sea as a man-made error, but the Colorado River broke their dike and filled the Salton Sea. But as the University of Redlands pointed out, that in the past 1400 years, more often than not, there has been water in the Salton Sea. So I wish Congress and the State had the same power of moving water, but I think in the end Mother Nature is going to win out.

And I am wondering if you could reconcile for me, Mr. Raley, why not too long ago you signed the Torres-Martinez settlement agreement which allowed permanent flowage into the Salton Sea, but now we're saying the sea is going to die if we don't do it. So which way do you all want it. Do you want it in the sea, which we all fought so hard to save, and now you're saying we don't want it in the sea. We can't have it both ways. So how do those two things reconcile?

Mr. RALEY. Congresswoman, I accept your admonition that Federal agencies should talk and work together more closely. And we will do so.

With respect to the issue of—and I apologize, I can't exactly quote the part of your question, as to whether or not we believe that we want to restore the Salton Sea, our position is that we're going to provide, have already provided, in fact, the report to Congress and I'm going back and am going to provide another alternative report. But that the ultimate fate of the sea is in fact a decision of a magnitude so great that it truly does rest with Congress and the State of California. We at Interior do not have the authority to make that determination. And, hence, the basis for my statement.

Mrs. BONO. You don't have the authority or do you just perhaps believe that the sea is a dead sea anyway, it's a waste of time, and just don't want to publicly say that? Because if that is the case, then that is what the people ought to hear so that we go from that point forward and say it, and not be afraid to put that out there.

Mr. RALEY. The Administration does not have a position on the status of the sea or its future. That's a— Congresswoman, in my 20 years of dealing with issues like this, which is not as much as many people here, but having studied ones that came before me, this is one of the most difficult public policy issues that has existed in the natural resources community in the United States. And so the reason that we don't have a position as an administration as to the ultimate fate of the sea and what should be done is we are, like you, searching for the right answer.

Mrs. BONO. Thank you.

Do we have a little bit more time, Mr. Chairman? Thank you.

First of all, that right answer is going to come forth when all of the players sit down at the table and talk, the EPA, you all, the state, everybody sits down together, including people who are looking at the economic opportunities in the area.

But if I can move on to Mr. NASTRI, a couple of questions regarding the Owens Lake, where does the problem of the dust come from at Owens Lake, the dry lake bed? Does that come from the center of the lake, the worst part of the pollution problem?

Mr. NASTRI. Well, you raise an excellent point in that the actual entire surface of the lake that was exposed isn't considered emissive; and by that I mean discharging PM into the air. There's only a certain portion of that, and I believe—and I want to check with my staff—but I believe it's in the northwest, and it's a relatively small portion of that lake bed.

Mrs. BONO. In the center or—

Mr. NASTRI. In the north—I'm sorry, on the eastern portion of the lake. It's 35 square miles. And there is various conditions which lead to the emissiveness of that lake bed, whether or not the soil can form a lattice structure, what the actual soil characteristics are in terms of the mineralogy, because it actually varies in distribution. So we can't make a general statement and say throughout an entire area you expect to see this. And in fact that was sort of the lesson learned from the Mono Lake, Owens Lake region, is that we can't make these generalizations, that we do have to go on and look at in a very particular—

Mrs. BONO. I've read oftentimes that the Salton Sea's worst problems actually are the edges, not from the center of the lake. Is that a correct statement? Or again if you don't have the scientific proof—

Mr. NASTRI. I would say at this point we don't have enough information to know where the specific portions would be. There's been limited data that's been collected. And in order to really assess that, you would need to take coring samples throughout the area and you'd want to look at the actual soil characteristics in that potential area. So at this point I don't think we at EPA are ready to say that the edges now are the cause of greatest concern. We just don't know. We don't have the data.

Mrs. BONO. One last question. Again Mr. Nastri, are we in non-attainment now, is the Coachella Valley?

Mr. NASTRI. No, you're not. PM-10 is currently considered severe.

Mrs. BONO. Severe.

Mr. NASTRI. Serious. I'm sorry. Serious.

Mrs. BONO. Thank you.

Mr. CALVERT. Thank you. Assemblyman Kelly?

Mr. KELLY. Mr. Raley, if you don't know, there's been a lot of discussion about the timing of the QSA and meeting requirements by the end of year. To your knowledge, is there any way that you could extend that timeframe or anybody could extend the timeframe to meet the requirements if they aren't met by the end of the year?

Mr. RALEY. Well, from a technical or legal perspective, yes, there is a way. But that's not something that we are considering in any respect.

Mr. KELLY. So if we do reach that deadline and we do come to the point where we have to make a decision of immediately reducing down to 4.4, losing something like seven, eight hundred thousand acre-feet of water in the State of California, is there some procedure, some method—and I don't know how it would be imposed, that's why I'm asking the question—that could be imposed that would extend this for a period of time to try to come to some resolution?

Mr. RALEY. Well, the reason some of them—and I'm certainly going to be responsive to the scope of your question—as a legal matter, within the limits of the Constitution, there's much that can be done. There are certainly—just as the interim surplus criteria came into being through compliance with Federal law and the adoption of the guidelines, in theory, it could be amended. That's, however, not something that we have any interest in doing at the present time.

Mr. KELLY. I understand very clearly the mechanics of what you're saying here. And I understand very clearly the political ramifications of failing to implement this by that point in time of the upper basins—

Mr. RALEY. Well, in the other—what it is, the question, the outer bounds that are very serious for the Secretary given the injunction of decree in Arizona vs. California is the Supreme Court decree. And so it is not as if this entire matter is something that is open to a wide range of discretion. In fact, the Secretary's discretion is very narrowly defined by the compacts in the decree.

Mr. KELLY. Another question. We're all aware of the drought conditions in upper basin states and down here in the Southwest too. The secretary generally declares surplus water in the Colorado River approximately a year in advance of the actual delivery of surplus water, so they can make a decision—states can make a decision on that. I don't recall the dates that the Secretary generally does that, but under the conditions, it's very doubtful that there be a surplus declaration made in any immediate future. As a matter of fact, inflows into these lakes on the Colorado River is dramatically down. Do you see the Secretary making modifications in the allocations currently authorized under the various agreements on the river with the various states? Do you see any modifications at all?

Mr. RALEY. Absolutely not.

Mr. KELLY. OK. Mr. Hannigan, as you're well aware, we have a Fully Protected Species Act in the State of California. And in order for the QSA to be implemented we must modify the statutes here in the State of California. Two bills that are working their way through the process in Sacramento, when they exist—let's put it that way, in Sacramento. One is a narrow fix to the Colorado River and the Salton Sea, which I authored. The other is a Fully Protected Species modification alternative in the State of California statewide. Both of the measures are kind of in limbo at this point in time. Failure for either one of these measures to be implemented would, in your view— what do you—what would happen in your view?

Mr. HANNIGAN. Do I understand—and we're referring to the Kuehl bill—

Mr. KELLY. Right and then there's my bill.

Mr. HANNIGAN. Right, Kelly bill.

As I understand the status, the Department of Fish and Game would not be able to issue whatever permits it has the authority to issue unless the fully protected measure is dealt with, legislated. Early on Director Hite tried as best he could to administratively deal with it and came to a conclusion that he couldn't do that, and so turned to a legislative remedy.

Mr. KELLY. OK. But failure to either one of these—

Mr. HANNIGAN. Well, and I think—although the Administration currently is working with Senator Kuehl and would like for that solution to occur, I think at some point the legislature and the Administration are going to have to seriously think about a—

Mr. KELLY. Narrow fix.

Mr. HANNIGAN. Narrow fix.

Mr. KELLY. That's right. Thank you.

Mr. RALEY. Assemblyman, if I could just add one more point. From a Federal perspective, and we're trying to be very disciplined in separating out Federal from state requirements because we don't want to intrude in any way, shape, or form on the state prerogatives, from a Federal perspective we think that it is highly likely and in fact we believe that we can comply with all the requirements of Federal law that will be applied to the execution of the secretarial implementation agreement at the end of the year, whether it be through an HCP—as it's been the subject of much discussion and it's been our preference, because it not only prob-

ably provides the most opportunity for addressing larger issues with the sea—or the other reason for our preference for the HCP is our very intense understanding that it would dovetail most neatly with the state requirements.

But if from a Federal perspective we cannot proceed under an HCP, we believe that there is a path to success under Section 7 or other alternatives. And that puts I believe the point you're making—we may be in a position of where Federal law requirements have been met, but not state. I believe that's what you were making.

Mr. KELLY. Right. Thank you.

Mr. CALVERT. Thank you gentlemen.

Mr. Raley, one point. If in fact—I know everyone at this dais—not everyone that is involved in this agrees that, as the Senator pointed out in his opening statement, that we must, from, I think, our perspective, execute this quantification settlement by the end of the year because the consequences are too great even to consider. If in fact that—my experience with some of the Western States in dealing with some of the Governors and certainly Members of Congress, and as far as—I don't hear a lot of sympathy from their perspective if they're unable to meet this special day, and signed disagreement of this is going to mean a lot of legal from their perspective. Just one point, if in fact the people understand this, if you're not able to work this agreement out and California is cut back immediately to its 4.4 million acre-feet, everyone who has water rights in the river from California would be affected by that, including Metropolitan, including Palo Verde, including Imperial County. And by definition, if less water is flowing say to Imperial County, then less tail water and more exposure to the shorelines in the Salton Sea. Wouldn't that logically be the conclusion?

Mr. RALEY. Certainly for the latter part of your point, which is absolutely accurate. But the actual distribution of the shortfall, in other words, if California is limited to 4.4, to its legal entitlement, then how the water within California's use is allocated falls under the seven-party agreement and other structures.

My understanding is that, on an overall basis, the shortage, if you will, the effects would most directly be felt by the Metropolitan Water District because of the operation of the priorities set up in the seven-party agreement.

But Tom, if I've misstated that—

Mr. HANNIGAN. No, that's right.

Mr. CALVERT. But it's accurate then that the people of Los Angeles, Orange County, San Diego would be the most affected by this.

Mr. RALEY. Yes, sir.

Mr. CALVERT. Thank you.

Any other questions for this panel?

I want to thank you. And if some of you or all of you can be here for a while, if there's any additional questions from Mr. Hunter who will be here shortly, I'm sure he'll appreciate it.

I'm now going to introduce our second panel. Mr. James Turner, Chairman of the Board, San Diego County Water Authority. Mr. Andy Horne, member of the board of directors, of Imperial Irrigation District. Mr. Phillip J. Pace, Chairman of the Metropolitan

Water District of Southern California, Mr. John W. Jack McFadden, President of the Board, Coachella Valley Water District. And Mr. Gary Wyatt, member of the Imperial County Board of Supervisor. Thank you for coming forward.

Mr. CALVERT. Mr. Turner, I think you've heard our original comments about 5-minute testimony. We're happy to submit the full testimony for the record. With that you're recognized.

**STATEMENT OF JAMES F. TURNER, CHAIRMAN OF THE
BOARD, SAN DIEGO COUNTY WATER AUTHORITY**

Mr. TURNER. Thank you, Mr. Chairman Calvert, Chairman Costa, and members of the Subcommittee and Committee. I appreciate the opportunity to address you today. And as you have said, I have submitted my testimony, so I won't have a lot of comments to make. The importance of the water transfer of the QSA are not just for the water agencies involved but for all of California. State cannot afford to lose 700,000 acre-foot of supply annually. QSA must be executed by the end of the year. I would want to show my appreciation to the Administration, both state and Federal, for their assistance, their staffs, and certainly the legislators that have been involved in this. I really appreciate it.

The Water Authority continues out of commitment of staff and resources to ensure that we find a solution to the environmental challenge of the Salton Sea that meets the needs of all parties. This is too important to this state. We cannot accept failure. And with your indulgence, Mr. Chairman, I'd like our General Manager, Maureen Stapleton, to address the Committee with my remaining time.

[The prepared statement of Mr. Turner follows:]

**Statement of James Turner, Chairman of the Board,
San Diego County Water Authority**

Chairman Calvert, Chairman Costa, and members of the Subcommittee and Committee. I am Jim Turner, Chairman of the Board of the San Diego County Water Authority. I appreciate the opportunity to testify before you on the implementation of the California Colorado River Use Plan and the Quantification Agreement. The matter is of the utmost importance to not only Southern California, but also critical to the overall water management for the entire state.

On December 10, 2001 in Las Vegas, the 4 water agencies were before this Subcommittee to provide an update on the progress in implementing the California Plan. In that testimony San Diego, along with the other 3 water agencies, outlined the extensive accomplishments that had been made in moving California closer to being able to formally execute the Quantification Settlement Agreement (QSA) by its deadline of December 31, 2002. Additionally, the urban agencies highlighted additional efforts and investments each was making towards increasing water efficiency and water reliability within our service areas.

We are here today to report that progress continues to be made towards the ultimate implementation of the California Plan. We are also here to tell you that the agencies have encountered an issue that will require both state and Federal assistance if we are to resolve it and meet the required deadline. And that issue is the Salton Sea and the potential impacts of the water transfers on it.

No matter where one stands on the merits of restoration efforts for the Salton Sea, it is clear that environmental protection of the sea has been a challenge for the conservation measures involved in the San Diego County Water Authority-Imperial Irrigation District, and the Coachella Imperial Irrigation District water transfer agreements.

The San Diego-IID agreement, as part of the QSA, is a key component of California's Plan to reduce its reliance on surplus Colorado River water. Should the challenges facing the implementation of the water transfer fail to be successfully addressed, and thus the QSA fail to be executed by the end of the year, instead of

a gradual reduction, Southern California faces an immediate cut of 30 percent from its current imported water supply.

Fortunately, we believe this critically important water transfer between the Water Authority and Imperial can still be implemented, and we are working with farmers, community and business leaders in the Imperial Valley on finding an approach that can work for all. Also working with Imperial, the Water Authority, Coachella and the Metropolitan Water District, have been a variety of state and Federal officials. The commitment to finding a solution shown by legislators on both the Federal and state level has been vital, and your continued leadership on this issue is greatly appreciated.

The truth is that everyone agrees, including the Water Authority, that Imperial Valley must be fully compensated for any and all impacts of the water transfer on the environment and economy. In fact, the agreement was originally structured to allow Imperial's economy to not only be kept intact, but to be in better shape than before the transfer was implemented.

The Water Authority continues to commit its efforts in working with the Federal, state and the other water districts to seek a solution that can be successfully implemented. We believe that, given the challenges around the Salton Sea impacts, we collectively now need to determine a feasible alternative conservation program, reach agreement on the impacts of the program, and allocate the funds to mitigate those impacts.

These impacts directly correlate with the conservation program implemented. Generally, if the program to save water involves on-farm water conservation, money has to be provided to construct the various conservation projects and to offset the environmental impacts of the program. If the program involves the fallowing/land management of some of the farmland to save water, funding will need to compensate the farmers, and go to economic development, job training and other community impacts.

In both cases, funding also would need to cover administration of the program and those related costs. Some in Imperial Valley have floated ideas about a combination of fallowing and on-farm conservation measures as another type of program to implement. In any event, we are positive we can work together to get this done in a way that benefits the Imperial Valley economy and has minimal or no effect on the Salton Sea.

The water transfer is one of many water-supply sources the Water Authority is pursuing as part of a diversified mix of resources. We are continuing efforts to promote water conservation throughout the county. Because of our water-wise habits, San Diegans are using the same amount of water as we did 10 years ago, even though the population has increased 15 percent. Local water supply sources being developed include recycling water, ground water storage and extraction, surface water and seawater desalination.

New advances in desalination technology, cost savings provided by locating desalination facilities next to coastal power plants, and the availability of financial incentives have made the cost of seawater desalination more competitive with other water resources. These developments have prompted the County Water Authority to engage in a serious examination of several options that could make seawater desalination a reality in San Diego County in the near future.

Storage is another area in which the Water Authority is moving forward. The Emergency Storage Project, an \$827 million capital improvement project, will provide more than 90,000 acre-feet of additional storage capacity for the county by 2010.

The County Water Authority is developing all of these programs to diversify its water supply mix in the future. The water transfer with Imperial will not provide additional water to the San Diego region, but rather will replace water lost as a result of California's mandate to live within its Colorado River allocation.

California's Colorado River Water Use Plan is based to a great extent upon the transfer of river water from the Imperial Valley to San Diego, MWD and Coachella. The urban agencies will be paying to implement conservation programs that make the water available for use without economically harming the agricultural community. In the Water Authority-Imperial agreement, the water is made available for use by the urban area, but the actual water rights stay with the agricultural agency.

Additional assurances for Imperial are provided in the Quantification Settlement Agreement, under which other agencies agree not to challenge the district's water use, which offers the best protection for Imperial's water rights, now and in the future.

The Water Authority feels the same pressure and urgency that have been placed on all the California water agencies that use Colorado River water. The California

agencies have done a good job putting together the complex agreements that allow for California to cut back its Colorado River water use by 800,000 acre-feet over a 15-year time period. The Water Authority is resolved to working with the Imperial Valley to create a transfer that benefits all parties and that ensures the Quantification Settlement Agreement is implemented in time to secure all of California's water future.

Mr. CALVERT. For the record, please, state your name and occupation.

**STATEMENT OF MAUREEN STAPLETON, GENERAL MANAGER,
SAN DIEGO COUNTY WATER AUTHORITY.**

Ms. STAPLETON. Maureen Stapleton, General Manager, San Diego County Water Authority.

Thank you very much for allowing me to just take a few minutes to augment my Chairman's comments. The Southern California coastal claim the urban agencies have literally spent billions of dollars on water supply projects, including water storage, water conservation, reclamation, and we're moving into desalination. In San Diego County our population over the last 15 years has increased by about 15 percent. And during—that's about 400,000 people. And during that time, between then and now, we are using the exact same amount of water that we used literally 10 years ago. I think it shows that our water efficiencies and our commitment to conservation reclamation, local projects, and so forth, is there and it is there where we're putting our money where our mouth is.

You heard this morning from Director Hannigan that we have been pursuing the four agencies on two different tracks. The first track—think of it as bookends—the first track was to identify what the environmental impacts were of the onfarm conservation program both within the valley, in the river, and at the Salton Sea.

You also heard this morning that, based upon the number of species that are being sought to be covered as well as the mitigation plan which was looking at a hatchery fish concept alternative for environmental mitigation of the Salton Sea. The Department of Fish and Game of the State of California has determined that that in and of itself is not permissible.

You have also heard this morning by Congresswoman Bono that we were looking at an alternative which was a temporary fallowing land management program. What this would accomplish is little or no impacts to the Salton Sea during that period of time, which would allow for the Salton Sea alternatives to be fully developed, debated and deliberated by Congress in the State of California. But that doesn't mean per se that it's any cheaper or easier to accomplish. With onfarm conservation we are investing large dollars into the construction of the conservation projects onfarm. When you're talking about a land management or fallowing program you're talking about a need to address the socioeconomic impacts that the program may have on Imperial Valley.

Then also you have administration costs, additional environmental costs, as well as costs for lost power and water revenues to the Imperial Irrigation District.

I think you have four agencies who firmly believe that Imperial Valley must be fully compensated for any and all impacts related to the environment and to the economy. And San Diego County

Water Authority stands ready, willing, and able to look at alternatives which still accomplish the goals and the time requirements of the QSA, and really gets us from here to success. As our Chairman Turner said earlier, we cannot afford to fail for California.

I would like to add a comment that Assistant Secretary Raley said was what would happen if in fact the QSA is not signed, that the bulk of the burden comes from Metropolitan Water District and the loss of the water. You need to remember also is there is a loss of water certainty for Coachella Valley, there is a loss of water right certainty for Imperial Valley, and there is a loss of water diversity and our water supply in San Diego. We all have much to lose. Thank you.

Mr. CALVERT. Mr. Andy Horne.

STATEMENT OF ANDY HORNE, MEMBER, BOARD OF DIRECTORS, IMPERIAL IRRIGATION DISTRICT

Mr. HORNE. Thank you, Mr. Chairman. And I'd also like to thank the—your fellow state and Federal congressional representatives for holding these hearings on the status of the Colorado River agreements, and what those agreements mean for California and for the Colorado basin.

I'd also especially like to thank you, Chairman Calvert, and also Congressman Hunter and Assemblyman Kelly for their ongoing participation and discussions outside this room and their efforts on our behalf in those discussions.

I do have some written testimony that's been submitted.

I'd like to make some brief remarks. And I heard a number of the members up there yield time and I would be happy to accept that at this time.

The agreements that I spoke of involved a number of water transfers based on a proven model of urban water users of supplying money to help farmers in the Imperial Valley pay for conservation technology that they otherwise could not afford. The total of those conservation measures would amount to about 500,000 acre-feet, taken together. I think it's important for us all to remember that all of that water is coming from the Imperial Valley. So we feel we have a massive stake in what the outcome of this is.

I think some have questioned the commitment of IID and the Imperial Valley to finalize these agreements, and I want to assure you the IID remains committed to observing the efforts using our water user's money. And our community, I believe, remains supportive of finalizing and realizing the clear benefits of this type of program to us and to California.

We were talking originally, of course, about finalizing the agreements within the context of a final restoration plan for the Salton Sea. That didn't look like it was going to work, or it wasn't going to be ready in time. So then we were assured that a workable Agency P Plan could be developed to address Salton Sea impact as part of the transfer, and that assurances for reliability for ongoing environmental issues would be part of the deal. None of that has occurred.

So this is where we stand today. And now everyone has decided that extensive land fallowing is a solution to all these problems. We feel a little bit like we were negotiating for money to buy a bi-

cycle that would allow us to go farther and faster using the same effort. Now, as a result of some of these problems, the Imperial Valley and IID are being told to please reach down and cutoff your left leg and we'll give you the same amount of money we were going to use to buy the bicycle, but you won't need the bicycle. And, by the way, if you don't agree to this, we're going to strap you to this table and cut your leg off and we're not going to give you anything in that case.

There have been a number of rumors and demands about the amount of money that Imperial Valley is demanding—was the word used—to mitigate impacts. We don't know what the impacts of a fallowing program would be in the Imperial Valley. More importantly we don't know how such impacts would even begin to be mitigated. We're not demanding anything except respect, respect for our water rights, respect for our community, and respect for our way of life.

We are committed to work to work with the agencies and the state and Federal Governments to help California with its water supply need. We think that continual threats and intimidation will only strengthen the resolve of our community to protect ourself.

Furthermore, such attacks only work to undermine any possibility of implementing a consensus-based solution to these difficult issues. We need cooperation and continued cooperation of the state and Federal agencies and our fellow water agencies to get these problems resolved.

We know that the Federal Government, through the years, have lived by a policy of not negotiating with terrorists, and we feel that we may need to adopt that same policy in these ongoing discussions. The theory behind that is that negotiating with terrorists only encourages them. And we don't want to be placed in a situation of yielding at this point in time and giving up something we feel is very valuable, and not knowing when these demands will stop. Thank you.

[The prepared statement of Mr. Horne follows:]

Statement of Andy Horne, Imperial Irrigation District Board of Directors

Mr. Chairman, I want to thank the Subcommittee for holding this hearing today to discuss the Quantification Settlement Agreement (QSA) and the Interim Surplus Guidelines and what these agreements mean for California.

The proposed Imperial Irrigation District–San Diego water transfer, a key component of the QSA, is based on the proven model in which an urban area acquires water by providing a rural area with the funding necessary for water conservation technology that it could not otherwise afford. Under this “win-win” approach, farmers can farm more efficiently, and the conserved water goes to meet urban demands.

It appears, however, that the IID–San Diego conservation-based transfer will have a negative impact on the Salton Sea because greater efficiency means less irrigation runoff will reach the Sea. Now the people of the Imperial Valley are being told that instead of conserving water, they must simply stop farming on up to 75,000 acres of land so that the transfer does not accelerate the already increasing salinity levels of the Sea.

A fallowing approach may buy the Sea a few more years before it becomes hypersaline, but what about the people of the Imperial Valley? Common sense suggests that you can't reduce agricultural production in the Valley by 20 percent without a very severe impact on the area's already distressed economy.

A recent study found that fallowing would eliminate almost 300 Valley jobs in the short term and about 1,400 jobs in the long term. Direct economic losses to the farm sector alone would amount to hundreds of millions of dollars. On the other hand, the same study found that a conservation-based transfer would create jobs and gen-

erate hundreds of millions of dollars in new income for Imperial County, one of the poorest jurisdictions in California.

Still, environmentalists say that fallowing is the only reasonable option, and they have threatened to fight the conservation-based transfer. Interior Department officials keep threatening to take the Valley's water away unless it agrees to fallow, and many in Congress and the State Legislature say that the Valley must fallow because it is the "win-win" course.

How does the Imperial Valley win when it loses jobs and income?

The Salton Sea has many dedicated protectors who will ensure that any damage to the Sea is minimized and mitigated. But who is offering to protect the farmworkers and farmers who will lose their jobs and homes because of fallowing? The environmentalists? The Interior Department? The United States Congress? The other water districts? Not so far. While they call for shifting the negative impacts of the water transfers from the Salton Sea to the Imperial Valley community, they offer no meaningful measures to mitigate the inevitable economic and social damage.

Yes, IID and the Valley will receive revenues from the water transfers, but that income will not nearly cover the costs and the economic losses caused by fallowing. Nor would it replace the economic stimulus that would come from a conservation-based transfer.

In addition to the obvious economic concerns, the people of the Imperial Valley are worried that fallowing will have other negative consequences. For example, a conservation-based transfer will allow the Imperial Irrigation District to become more efficient in its use of water and therefore less likely to be attacked, as it has been in the past, for its water use. A fallowing program will not improve efficiency at all, and farmers fear that they will be threatened again in the future with loss of their supplies.

There also is concern that if the Valley is forced to fallow this time, the 17 million people on the Southern California coast will eventually try to wring more water from the Valley through additional fallowing or by some other objectionable means.

In addition, even fallowing has environmental impacts. Who will pay for mitigating them? Who will pay for the inevitable litigation that will arise from environmentalists and others who think that fallowing doesn't go far enough, or goes too far?

All of these concerns weigh heavily on the minds of Valley residents and decision-makers. The benefits to California of an approved QSA and the availability of surplus Colorado River water for the next 15 years cannot come solely on the backs of the people of the Imperial Valley. There are serious concerns that won't be pressured away or bought off with a few appropriations dollars.

Some people believe that the QSA is in trouble because IID wants to "back out of the deal." That's just flat out false. The IID likes the existing deal in which we conserve water for transfer and all the parties share the costs of mitigating any impacts. The real problem is that the Interior Department and others want to change the deal so that IID fallows land and absorbs all the negative impacts. They are angry with us because we won't do that we won't volunteer to shoot ourselves in the head for the benefit of our richer neighbors.

Is there a way to make the water transfers succeed without harming the people of the Imperial Valley or the Salton Sea? We hope so, and we're working very hard to find that solution.

But if fallowing is really in the best interests of the region, the state and the nation, then the region, the state, and the nation need to step forward to help the people of the Imperial Valley address the consequences of fallowing. There must be a commitment to genuinely mitigate the severe economic impacts and to protect the Valley from never-ending demands on its water and ever-escalating environmental requirements and litigation.

Are the advocates of fallowing willing to act now to address these issues? The people of the Imperial Valley need an answer to that question before they are willing to put the future of their community on the line.

Mr. CALVERT. Mr. Pace.

**STATEMENT OF PHILLIP J. PACE, CHAIRMAN, METROPOLITAN
WATER DISTRICT OF SOUTHERN CALIFORNIA**

Mr. PACE. Thank you, Andy. I hope you're not talking about me.

Thank you very much, Chairman Calvert, Chairman Costa, members of the Committee. My written testimony addresses the efforts of the Metropolitan Water District of Southern California, and those of the other agencies in implementing both California's Colorado River Water Use Plan and the associated Quantification Settlement Agreement. It also details Metropolitan's other complimentary activities that increase its water supply reliability and diversity.

Mr. CALVERT. Sir, maybe bring that mike up a little bit closer.

Mr. PACE. OK, sir. There you go. Can you hear me now?

Mr. CALVERT. I guess you'd better hold it.

Mr. PACE. OK.

In addition, the written statement also includes an addendum that summarizes the 1992/94 Metropolitan/Palo Verde Irrigation District test land fallowing program and the agency's proposed land management, crop rotation, and water supply program. And maybe later on I can have Dennis Underwood address some of these programs you're going to hear about.

I will only provide highlights of the written statement in my comments. Much progress has been made to date for implementing California's Colorado River water use plan and the Quantification Settlement Agreement. The goal of Metropolitan and other California agencies is to reduce the state's use of surplus Colorado River water without creating additional demands on other water supplies in the state. California will do this through increased water use efficiencies and water management programs. The California plan, the QSA, and the other related agreements contemplate accomplishing this reduction principally through voluntary cooperative agriculture to urban water conservation, transfers and storage and conjunctive use programs.

I cannot overstate the importance of the California plan to California, its economy, and environment. Absent this effort and the accomplishments to date, a major statewide crisis could easily occur. The California plan avoids increasing demands on statewide and regional water supplies, and the potential disruption of regional and state economies as well as adverse environmental consequences.

The three main phases, documentation, environmental reviews, and the State Water Resources Control Board petition process, leading to the execution of the QSA, allows for a schedule that allows for the agreement to be executed by the end of this year.

However, significant issues related to the Salton Sea and Fully Protected Species remain to be resolved. The Salton Sea issue deals with acceptable mitigation for the impacts of the QSA transfers that provides for the necessary approvals and permits. The methods to accomplish the transfers contained in the draft IID/SDCWA transfer EIS/EIR range from onfarm system, conservation improvements, and crop land fallowing.

Other necessary actions include certification and record of decisions on related state and Federal environmental documents, a State Water Resources Control Board decision on the transfer petition, and adequate funding of required mitigation.

The QSA related environmental impact reports are scheduled to be certified at the end of this month. The State Water Resources

Control Board plans to release a proposed decision on the IID/SDCWA transfer in July of this year, and its final decision in September of this year. Supplemental Colorado River interim surplus guidelines agreements between Metropolitan and the State of Arizona and the Southern Nevada Water Authority have been approved.

The agreement with Arizona has been executed, with the Nevada agreement still awaiting execution.

California is capable of meeting the interim surplus guidelines Colorado River water use reduction benchmarks for 2003 and beyond. The Coachella and All American Canal lining projects are moving forward and are scheduled to be completed by 2006. Design work on the Coachella Canal lining project is about to begin. Required agreements for the All American Canal project are being finalized.

Progress continues on Metropolitan's Colorado River water storage and conjunctive use program alternatives as outlined in my written statement. Two production wells are being developed for the Hayfield program to assist in the design of extraction facilities.

The proposed Cadiz project is awaiting the Department of the Interior's record of decision, which will be followed by consideration by our board here within the next couple of months. The other programs are under various stages of study.

Metropolitan remains committed to the proposed Quantification Settlement Agreement, maintaining the Colorado River interim surplus guidelines for the full interim period.

This concludes my remarks. I thank you very much for your kind patience.

And if you have any questions, Senator Costa, as you indicated to me before, regarding the AIE program, Dennis Underwood is here to answer any of the technical questions that any of you might have. Thank you very much.

Mr. COSTA. Thank you, gentleman.

[The prepared statement of Mr. Pace follows:]

**Statement of Phillip J. Pace, Chairman of the Board of Directors,
Metropolitan Water District of Southern California**

INTRODUCTION

Good morning, Chairman Calvert, Chairman Costa and members of the Subcommittee and Committee. Thank you for inviting me here this morning. I'm Phillip J. Pace, Chairman of the board of the Metropolitan Water District of Southern California (Metropolitan). I appreciate the opportunity to address you on the issues surrounding the implementation of the California Colorado River Water Use Plan (California Plan) and the Quantification Settlement Agreement (QSA).

Metropolitan is actively engaged with Coachella Valley Water District (CVWD), Imperial Irrigation District (IID), and San Diego County Water Authority (SDCWA) (collectively, the Agencies) in the implementation of the California Plan and the associated QSA to reduce California's dependency on Colorado River water. Metropolitan, in coordination with others, is undertaking the development of voluntary cooperative water conservation/transfers, water storage and conjunctive use programs, other cooperative water supply programs, water exchanges, dry-year supply programs, and Colorado River interim surplus guidelines' agreements as part of the effort to reduce the state of California's Colorado River water use to its basic annual apportionment of 4.4 million acre-feet, a reduction of about 800,000 acre-feet per year from its highest use of about 5.2 million acre-feet per year in the past 10 years.

In addition to these efforts, Metropolitan has undertaken major investments to lessen its demand for imported water, meet future demands, and improve supply water quality. This is being done through significant investments in increased water

conservation, recycling, local projects, groundwater recovery programs, in-service area storage and conjunctive use projects, watershed management, source-water quality protection, and improved desalting and other water treatment technologies. Coordination of these efforts is carried out through Metropolitan's Integrated Resources Plan and the Plan's strategies of supply reliability and affordability, and water quality enhancement and protection.

This testimony provides a brief overview of Metropolitan-specific efforts, within the framework of the California Plan, to increase its water supply reliability, diversify its sources of supply, reduce the region's reliance on imported water, and improve the effective use of local water supplies. It is important to understand that successfully meeting the conditions and milestones of the Department of the Interior's Interim Surplus Guidelines (Guidelines) is critical to a successfully implemented California Plan.

Metropolitan is a public agency established under the authority of a legislative Act in 1928 to secure imported water supplies for its member agencies. Metropolitan's 5,200-square-mile service area stretches some 200 miles along the coastal plain of Southern California and encompasses parts of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties. More than 17 million people reside within Metropolitan's service area.

Today, Metropolitan provides more than 50 percent of the water used within its service area. Metropolitan receives water from two principal sources, the Colorado River, via the Colorado River Aqueduct, and the State Water Project, via the California Aqueduct. To further help meet the water needs of member agencies, Metropolitan assists in the development and effective use of local resources, beginning in the late 1950s with cooperative groundwater recharge programs and evolving over time to member agency partnerships for water conservation, water recycling, groundwater recovery, and water storage and conjunctive use programs.

The 444-mile State Water Project (SWP) is owned by the State of California and operated by the California Department of Water Resources. The SWP transports water released from Oroville Dam and flows into the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay/Delta), and travels south via the California Aqueduct to four delivery points near the northern and eastern boundaries of Metropolitan. Metropolitan is one of 29 agencies that have contracts for water service with the California Department of Water Resources.

Metropolitan's SWP contract is for a total of 2,011,500 acre-feet per year. The contracted amount was increased in 1964 from 1,500,000 acre-feet per year principally to offset the impending loss of a portion of Metropolitan's Colorado River supply resulting from the 1963 United States Supreme Court decision in *Arizona v. California*. Improvement of the supply reliability of the SWP and the development of comprehensive long-term solutions to the environmental problems in the Bay/Delta system are the focus of the CALFED process and legislation.

Under "The Law of the River", California is apportioned the use of 4.4 million acre-feet from the Colorado River each year plus one-half of any surplus water that may be available for use in the three states of Arizona, California and Nevada. Metropolitan has a legal entitlement to Colorado River water under a permanent service contract with the Secretary of the Interior.

The Colorado River Aqueduct, which is owned and operated by Metropolitan, transports water from the Colorado River approximately 242 miles to its terminus at Lake Mathews in Riverside County. It has the capability to divert about 1.3 million acre-feet per year. Under the priority system that governs the distribution of Colorado River water made available to California, Metropolitan holds the fourth priority right to 550,000 acre-feet per year. This is the last priority within California's annual basic apportionment of 4.4 million acre-feet. Metropolitan holds the fifth priority right to 662,000 acre-feet of water per year, which is in excess of California's annual basic apportionment. Historically, Metropolitan has been able to take advantage of its fifth priority right as a result of the availability of surplus water and Colorado River water apportioned but unused by Arizona and Nevada.

Over the last ten years, California entities have diverted 4.5 to 5.2 million acre-feet annually from the Colorado River, relying on system surpluses and apportioned but unused waters of Arizona and Nevada that will not be available in the future. The Colorado River Board of California, in consultation with the California Department of Water Resources, Metropolitan, CVWD, IID, Palo Verde Irrigation District (PVID), SDCWA, the City of Los Angeles, and others, has developed California's Colorado River Water Use Plan. The California Plan provides a framework for the reduction of California's use of Colorado River water to its annual basic apportionment through reallocation of water supplies among the involved water agencies (voluntary water conservation/transfers), potential cooperative water storage and conjunctive use programs, and by other means.

If no new agreements were executed and no surplus water were available, Southern California would face a total reduction of Colorado River water supply of about 800,000 acre-feet per year. The statewide economic and environmental consequences of this shortfall would simply not be acceptable. There is no substitute for success in implementing a plan for reducing California's dependency on Colorado River water that is acceptable to the Secretary of the Interior and the other Colorado River Basin states.

Multi-billion-dollar investments and contributions that have been and are proposed to be made by Metropolitan or by Metropolitan in cooperation with others that directly reduce California's dependence on Colorado River water include:

COLORADO RIVER WATER AGRICULTURE TO URBAN WATER TRANS-ACTIONS

- December 1988 IID/MWD Water Conservation and Use of Conserved Water Agreement and Associated 1989 Approval Agreement—yield of 100,000 to 110,000 acre-feet per year (QSA core component) [PROJECT OPERATIONAL]
- April 1998 Water Conservation and Transfer Agreement between IID and SDCWA—yield of 130,000 to 200,000 acre-feet per year, and August 1998 Water Exchange Agreement between SDCWA and MWD (QSA core component and the former being the subject of this proceeding)
- Coachella Canal [scheduled to begin construction 2003] and All-American Canal [scheduled to begin construction 2003] Lining Projects—yield of 94,000 acre-feet per year, including 16,000 acre-feet per year to facilitate implementation of the San Luis Rey Indian Water Right Settlement (QSA core component)
- May 1992 PVID/MWD Land Management, Crop Rotation, and Water Supply Test Program—yield of 186,000 acre-feet from 1992 to 1994 [PROJECT COMPLETED]
- Proposed PVID/MWD Land Management, Crop Rotation, and Water Supply Program—yield of up to 111,000 acre-feet per year [PRINCIPLES OF AGREEMENT APPROVED] (Summary descriptions of the successful 1992–1994 Metropolitan/PVID test land fallowing program and the proposed Metropolitan/PVID Land Management, Crop Rotation and Water Supply Program are included as an addendum to this statement.)
- Acquisition of San Diego Gas and Electric Company properties in the Palo Verde Valley area for inclusion in the PVID/MWD proposed program [ACQUISITION COMPLETED]

INVESTMENTS IN COLORADO RIVER WATER STORAGE PROGRAMS

- June 1984 MWD/CVWD/Desert Water Agency Advance Delivery Agreement—multi-year yield of 600,000 acre-feet based on total storage capability [PROJECT OPERATIONAL]
- October 1992 MWD/Central Arizona Water Conservation District Demonstration Project on Underground Storage of Colorado River Water—yield of 81,000 acre-feet [STORAGE COMPLETED]
- Proposed Colorado River Storage and Conjunctive Use Programs—with a goal of 3 million acre-feet of collective storage and a collective put-and-take of between 300,000 and 400,000 acre-feet per year
- Hayfield Valley—800,000 acre-feet of storage, recharge and recovery of 150,000 acre-feet per year [IN PROGRESS]
- Chuckwalla Valley—500,000 acre-feet of storage, recharge and recovery of 150,000 acre-feet per year [UNDER EVALUATION]
- Cadiz Valley—1 million acre-feet of storage, recharge and recovery of 150,000 acre-feet per year including potential withdrawal of native groundwater [FINAL EIS RELEASED]
- Lower Coachella Valley—recharge and recovery of 100,000 acre-feet per year over a ten year cycle [UNDER EVALUATION]
- Arizona—1 million acre-feet of storage [UNDER EVALUATION]

Storage and conjunctive use programs in Lower Coachella Valley and Arizona would provide the capability of storing Colorado River water when the Colorado River Aqueduct is being fully utilized for operational reasons, including transport of water stored in off-aqueduct groundwater basins.

SECRETARY OF THE INTERIOR'S COLORADO RIVER INTERIM SURPLUS GUIDELINES

The final Guidelines provide a crucial transition to reliance on reduced Colorado River supplies. The Guidelines provide a 15-year period for California to transition to live within the state's basic 4.4 million acre-foot annual apportionment of Colorado River water. During the transition period, the use of surplus water would

transition down as successful measures to reduce California's use of Colorado River water are implemented.

Continuation of the Guidelines for the full 15-year period is contingent on California making specific measurable annual progress in the reduction of Colorado River water use to meet specific benchmarks at three-year intervals during the transition period. The first critical progress deadline is the execution of the QSA by December 31, 2002. The Guidelines specifically provide that unless the QSA is executed by that date, the Guidelines will be suspended until such time as California completes all required actions and complies with reductions in water use reflected in the Guidelines. If the QSA is not executed by this deadline, the additional surplus water provided under the Guidelines could be revoked as early as calendar year 2003. Loss of the surplus water at that point would likely result in serious economic disruption, renewal of controversy among the Agencies, and an unraveling of the California Plan.

OTHER COLORADO RIVER WATER MEASURES FOR IMPROVED RESERVOIR SYSTEM OPERATIONS AND WATER CONSERVATION

- Metropolitan's Interim Surplus Guidelines Agreement with Arizona [EXECUTED]
- Proposed Metropolitan's Interim Surplus Guidelines Agreement with Southern Nevada Water Authority [AWAITING EXECUTION]
- Secretary of the Interior's Final Rule on Offstream Storage of Colorado River Water (Interstate Banking) [EXECUTED]
- Proposed Small Offstream Water Management Reservoirs and Associated Facilities near the All-American Canal [INITIATE ENVIRONMENTAL DOCUMENTATION AND DESIGN IN 2002]

COMPLIMENTARY ACTIVITIES

These actions being taken by Metropolitan lessen the demand for imported water and increase water supply reliability:

- Southern California investments of more than \$1.2 billion in water conservation and water recycling (includes 1.6 million ultra-low-flush toilets, 3.2 million low-flow showerheads, and 15,500 water efficient clothes washers)
- Metropolitan investments of more than \$226 million to help develop more than 151,000 acre-feet per year of additional water supplies from local water recycling, groundwater clean-up and water conservation programs
- Metropolitan execution of 22 agreements to provide financial assistance to projects that recover contaminated groundwater with total contract yields of about 81,500 acre-feet per year
- Metropolitan execution of 53 agreements to provide financial assistance to projects that recycle water with total contract yields of about 233,400 acre-feet per year
- Through the development of cooperative Local Groundwater Storage Programs, Metropolitan currently has 240,000 acre-feet of water in storage as of the end of February 2002
- Water transfers involving State Water Project water with San Bernardino Valley Municipal Water District, Semitropic Water Storage District, and Arvin-Edison Water Storage District that can provide up to 90,000 acre-feet per year during a dry period
- Developing additional water transfer agreements with interested parties in California's Central Valley
- Construction of the \$2.1 billion, 800,000 acre-foot Diamond Valley Lake storage reservoir, doubling the amount of surface storage available in Southern California
- Construction of the Inland Feeder Project at an estimated construction cost of \$1.2 billion to provide greater water supply management opportunities.
- Developing seawater desalination projects in cooperation with member public agencies, as integral part of region's water supply mix.

These are only the highlights of the diverse programs being carried out by Metropolitan to help meet its, the Agencies, and the State's water supply needs. Metropolitan is committed to the Proposed Quantification Settlement Agreement, maintaining the Colorado River Interim Surplus Guidelines for the full interim period, and implementing the California Plan to allow California to reduce its dependence on Colorado River water.

It is imperative that the California Plan components that are feasible and will help the state to meet the requirements of the Interim Surplus Guidelines succeed. The Interim Surplus Guidelines are vital to a planned reduction in California's use

of the Colorado River. For this reason, there is great urgency in reaching a resolution on these matters.

This concludes my remarks. Thank you for the opportunity to address these important matters.

**Addendum to the Testimony of Phillip J. Pace, Chairman of the Board,
Metropolitan Water District of Southern California**

The Metropolitan Water District of Southern California (Metropolitan) is exploring several new programs that could supplement existing programs to help California reduce its use of Colorado River water. Among the alternatives under consideration is a proposed landmark program that could help provide a more reliable water supply for urban Southern California, while helping farmers and the local economy in the Palo Verde Valley in southeastern California.

In July 2001, the respective boards of directors of Metropolitan and the Palo Verde Irrigation District (PVID) approved principles of a 35-year agreement for a Land Management, Crop Rotation and Water Supply Program. The principles follow a successful pilot program between Metropolitan and PVID implemented from 1992 to 1994.

The following provides details of the test program and its regional economic impacts, as well as the summary of principles of the proposed Metropolitan/PVID Land Management, Crop Rotation and Water Supply Program.

THE 1992-94 TEST LAND FALLOWING PROGRAM WITH PVID

Metropolitan implemented a two-year test land fallowing program with PVID from August 1, 1992, through July 31, 1994. Under the test program, 20,215 acres of agricultural land were not irrigated with Colorado River water. Metropolitan compensated the landowners/lessees in the Palo Verde Valley who voluntarily fallowed approximately 22 percent of their land. Such payments, \$620 per fallowed acre per year, totaled \$25 million during the two-year period. By not irrigating, approximately 93,000 acre-feet of Colorado River water a year was saved, stored in Lake Mead, and made available by the U.S. Bureau of Reclamation (Reclamation) to Metropolitan until 1997, when Reclamation released this water due to flood control.

A five-member Measurement Committee was established consisting of one representative from each of the following organizations: Metropolitan, PVID, Reclamation, Imperial Irrigation District and Coachella Valley Water District. The Measurement Committee reviewed the status of the program and determined the actual amount of water saved by the test program.

The fallowed lands were maintained under approved Land Management Plans for the duration of the two-year test program. The purpose of the plans was to conserve land and water resources, and to eliminate or minimize adverse impacts to adjacent farms, the community and PVID through control of weeds and wind erosion. Weed control measures chosen by the farmers consisted of mechanical and chemical methods. Wind erosion control measures chosen by the farmers included application of appropriate cultural practices such as providing crop stubble, sod remnants or clod plowing. The test program was found to have no adverse environmental or air quality impacts.

Four surveys were conducted in the Palo Verde Valley during and after the test program to evaluate the economic impacts of the test program on the participating farmers and the community at large. Results indicated that the program was well accepted by the farmers and the community at large, and that the program did not affect overall regional economic performance in the Palo Verde Valley to any significant degree.

REGIONAL ECONOMIC IMPACTS OF TEST LAND FALLOWING PROGRAM

- Participants enrolled up to 25 percent of their productive acreage in exchange for an annual payment of \$640 per enrolled acre
- Total enrolled acreage was 20, 215 acres (approximately 22 percent of Palo Verde Valley's cultivated acres)
- In a typical year, between 90,000 and 95,000 acres are cultivated. A portion of land is double-cropped, so gross planted acreage in the valley in a typical year is about 110,000 acres
- Principal crops grown in the valley include alfalfa, cotton, sudan grass, wheat, melons, lettuce, and onions
- Test program displaced about 20,215 acres of field crops (hays—primarily alfalfa, and grains—primarily wheat)
- Test program did not have any appreciable effect on planting decisions for vegetables and melons

- Overall regional economic performance, the region's property and sales tax bases, and governmental services provided were not measurably affected
- Test program contributed to some loss of employment in the region:
 - * 27 full-time farm jobs
 - * 25 full-time farm-related business jobs, and
 - * 7 part-time/seasonal farm-related business jobs
- Combined employment losses were equal to about 1.3 percent of the region's average employment for 1991-92
- Test program did not cause non-farm-related businesses in the region to reduce employment or lose revenue
- Test program did negatively impact farm-related businesses providing services or supplies to the region's farmers such as seed, fertilizer, chemicals, and custom services
- Test program did not have a significant impact on regional gross farm revenue because revenue losses from reduced acreage were mostly offset by test program payments
- Participants spent 93 percent of test program payments in excess of fallowing and maintenance costs on farm-related investments, purchases, and debt repayment
- About 61 percent of test program payments in excess of costs was spent within the local economy
- Test program provided timely financial relief to the region's agricultural producers who had been under significant hardship due to low prices for key commodities, especially alfalfa, and pest infestation

SUMMARY OF PRINCIPLES OF AGREEMENT FOR PROPOSED NEW LAND MANAGEMENT, CROP ROTATION AND WATER SUPPLY PROGRAM

The objectives are to develop a flexible and reliable supplemental water supply for urban Southern California for 35 years, and to assist in stabilizing the farm economy within the Palo Verde Valley through sign-up payments and annual payments for water supply. Two types of agreements would be executed: (1) a Program Agreement between Metropolitan and PVID, and (2) Land Agreements between Metropolitan and participating landowners/lessees in the Palo Verde Valley.

HOW THE PROPOSED PROGRAM WOULD WORK

The maximum area of proposed program lands that would not be irrigated during each contract year would not exceed 24,000 acres in any 25 years and 26,500 acres in any 10 years during the 35-year program. A baseload area of 6,000 acres would not be irrigated each year of the 35 years. Metropolitan, upon a minimum of one-year notice, would have the option to increase the non-irrigated area from 6,000 acres up to a maximum of 26,500 acres. Once increased, the increased area would not be irrigated for a minimum of 2 years, and could be decreased on a minimum one-year notice by Metropolitan. Metropolitan would exercise the increases such that the average non-irrigated area over the 35 years would equal at least 12,000 acres per year (approximately 13 percent of irrigated Valley lands).

The landowner/lessee would be responsible for payment of taxes, PVID water toll payments, vegetation abatement, dust control, and all other costs related to the lands. A maximum of 29 percent of any one landowner/lessee's irrigated land would be eligible for the sign-up payment, unless there is insufficient interest in the proposed program, in which case the area could be increased up to a maximum of 35 percent.

STRUCTURE OF PAYMENTS

- Two types of payments to participating landowners are to be made under the proposed program: a one-time sign-up payment and annual payments.
- The sign-up payment is \$3,170 per acre times the maximum number of acres that could be non-irrigated at any year (expected to be 29 percent of the farm acreage). This sign-up payment could be paid in installments over a five-year period.
- The annual payment is \$550 per acre times the number of acres to be non-irrigated in that year (usually between 7 percent and 29 percent of the farm acreage). Annual payments would be escalated following the first year for the life of the proposed program with possible adjustments, if any, every five years based on future inflation.
- Additional payments to be made under the proposed program include:
 1. A payment of \$100,000 per year to Palo Verde Irrigation District to cover its additional costs associated with the program. This payment is to be escalated at 2.5 percent per year following the first year for the life of the program

2. A one-time payment of \$6 million following commencement of the program, or \$300,000 per year which equates to over \$16 million in actual dollars over the proposed program's life, for the purpose of community improvement projects
 3. The cost of the environmental documentation and other activities prior to program implementation estimated to total \$500,000
- When all these costs are considered, the calculated unit cost of saved water would depend on the level of saved water to be developed over the life of the proposed program.
 - For the minimum amount of saved water required to be developed over the life of the program (1.76 million acre-feet [MAF] or 48.6 percent of the maximum water that could be developed under the proposed program), the unit cost is \$206 per acre-foot (AF).
 - For an average or expected amount of saved water of 2.77 MAF to be developed over the life of the program (about 76 percent of the maximum), the unit cost is \$168/AF.
 - For the maximum amount of saved water that could be developed over the life of the proposed program (3.63 million acre-foot or 100,800 acre-feet per year for 25 years and 111,300 acre-feet per year for 10 years), the unit cost is \$153/AF.
 - These unit costs include all costs—payments to landowners and PVID, environmental and community improvement costs.
 - Should any of the cost components change, the above-cited unit costs will change.
 - The contracts are still being developed and are expected to be finalized by the end of July 2002.

Mr. CALVERT. Mr. Jack McFadden.

**STATEMENT OF JOHN W. "JACK" McFADDEN, PRESIDENT OF
THE BOARD, COACHELLA VALLEY WATER DISTRICT**

Mr. McFADDEN. Thank you, Mr. Chairman. Chairman Calvert, Chairman Costa, and Assemblyman Kelly, I thank you for holding this hearing.

My name is Jack McFadden. I'm President of Coachella Valley Water District. I am appearing before you today to reaffirm our commitment to doing our part to resolve the tremendous crisis for increasing air quality in California, which is, finding the workable solutions to reduce drastically the amount of water we receive each year from Colorado River.

I would like to introduce our General Manager and Chief Engineer, Tom Levy, who will review our understanding of the crisis at hand and outline the potential significant remedies to the hurdles we must clear to successfully address this crisis.

Mr. CALVERT. Would you state your name and occupation on the record.

Mr. LEVY. Yes. Tom Levy, General Manager, Chief Engineer for Coachella Valley Water District.

**STATEMENT OF THOMAS E. LEVY, GENERAL MANAGER-CHIEF
ENGINEER, COACHELLA VALLEY WATER DISTRICT**

Mr. LEVY. Seconding what has been said, the Quantification Settlement Agreement must be signed this year or California will face significant economic impacts. The Coachella Valley, this beautiful place that you are here today, is tied to the Quantification Settlement Agreement. We are currently in overdraft in the Coachella Valley, and the Quantification Settlement Agreement will provide the necessary water that we need to resolve that overdraft. And that overdraft exists whether or not we add one more golf course or one more person here in the Coachella Valley. We're solving the

problems we have today. And even worse than that, the ag agencies have an undivided 3.85 million acre-feet. No agency has a fixed amount in there. And IID and Coachella Valley Water District have had significant disagreements over the years of who bears the brunt if California is cut back. We've been using—the ag agencies—about a hundred thousand acre-feet more than what we're entitled to of that 3.85. So if California is limited to 4.4, we will lose a hundred thousand acre-feet. And then Mr. Horne's terrorists will be back in action.

So we're faced with a real dilemma in here. We must get it done. If we don't get the Quantification Settlement Agreement done, we will be forced to go out in the open market and compete for water, which will raise the price from double to four times what our rate payers currently pay. We will not be able to maintain the quality of life that we have here in the Coachella Valley. It will be—we'll see significant changes because of the costs in there.

The Salton Sea is critical to the Coachella Valley, but it is on a different timeframe. We don't have a plan today that if you were to vote us five or ten billion dollars to solve the Salton Sea, we don't know how to spend it. So we're faced with needing to get the QSA done by the end of the year, and needing time to address the Salton Sea issues.

Even without any transfer, the level of the Salton Sea will fall seven to eight feet, due to structural changes that are already in place. And with that we will have odor, dust, and other problems that we need to address. So we need a plan for the Salton Sea.

The latest numbers I have heard in the halls of Interior are \$900 million for a solution that addresses the blowing dust issues and other issues. We need to have EPA do some research and find out what's the extent of the problem and how do we solve it.

But in the short-term, we have two options for the QSA to go forward. One is onfarm conservation, and that impacts the flow to the Salton Sea on a one-to-one basis. And the current proposal for the listed—the species that are proposed to be included in it does not meet the requirements that allow the Federal and state wildlife agencies to issue the permits.

So then the option that is—the second option is temporary ET or evapotranspiration following that can allow the QSA to go forward, can provide the time for Congress and the state legislature to make a decision on how they want to restore the Salton Sea, and can address the socioeconomic impacts in Imperial Valley.

I have a paper which is part of my testimony, which I would ask the Committee to accept and enter into the record, which points out that if one were to develop a program that targets low value, highly mechanized, low labor intensity, high water using crops, that you could mitigate the economic impacts with the funds that are currently available.

[The prepared statement of Mr. Levy follows:]

**Statement of Thomas E. Levy, General Manager–Chief Engineer,
Coachella Valley Water District**

My name is Thomas E. Levy. I am general manager and chief engineer for the Coachella Valley Water District (CVWD). I have been asked by our board president, John W. "Jack" McFadden, to represent the district with respect to the United States House of Representatives, Committee on Resources, Subcommittee on Water

and Power's oversight hearing on Implementation of the California Plan for the Colorado River Opportunities and Challenges.

California is required by the California Limitation Act, the Boulder Canyon Project Act and a ruling by the United States Supreme Court (*Ariz. v. Ca.*) not to use more than 4.4 million acre-feet per year of Colorado River water unless a surplus or unused apportionments from Arizona or Nevada are available.

Other than the special surplus allowed for by the Interim Surplus Guidelines, the Secretary of the Interior does not have the ability or the authority to allow California to take more than 4.4 million acre-feet per year from the Colorado River in normal years.

The Department of the Interior and the water agencies associated with Colorado River water usage are enjoined by the Supreme Court from taking more than 4.4 million acre-feet in normal years.

Despite the exhaustive, good-faith efforts of many at the local, state and Federal level, California's mandated attempt to reduce significantly its dependency upon the Colorado River for water through the California 4.4 Plan, the Quantification Settlement Agreement (QSA) and other accords has developed into an intense drama, filled with accusations, threats, insults and innuendoes.

As is the case with many good stories, facts often are ignored by some of the "players" when they interfere with whatever elicits emotional responses from the audience.

Much of the spotlight during this drama has focused on the Salton Sea. So much so that the indisputable reality that we are in the midst of a water crisis that if left unresolved will adversely affect the lives of tens of millions of people for decades to come has been forced into the shadows.

My purpose here is not to make light of the Salton Sea's dilemma or to minimize its problems, but to redirect everyone's attention toward the bigger issue facing all of us how is California going to reduce its annual use of Colorado River water by 700,000 to 800,000 acre-feet a year?

This is not optional. The six other basin states that share in the use of the Colorado River graciously have given California up to 15 years to reduce its annual water usage to no more than 4.4 million acre-feet, but the clock is ticking and if significant, measurable milestones including execution of the QSA are not reached in a timely fashion we will not have 15 years to cut back we will have just a little more than six months before the Secretary of the Interior makes the reductions for us.

Consider that 800,000 acre-feet is enough liquid to cover 1,250 square miles with a foot of water; or enough water in the urban areas served by Metropolitan Water District (MWD) to meet the annual needs of 1.6 million families in and around their homes.

To date the transfer of water from agricultural purposes such as crop irrigation to urban use is the only viable solution offered for reducing California's dependency upon the Colorado River. When all aspects of the QSA are in place nearly half 393,700 acre-feet of the reduction requirements will have been met by transferring newly available water from agricultural to domestic use.

This obviously can only be accomplished by reducing through conservation or other means the amount of water used for irrigation. This is where the drama becomes intense because the Salton Sea's most ardent supporters argue such conservation threatens this large lake because it is fed by agricultural runoff from Imperial County and, to lesser extents, Mexico and the Coachella Valley.

Important to consider is that inflows into the Salton Sea already are going down and will continue to decrease, regardless of whether water transfers associated with the QSA are in place or not.

More than \$100 million in funding from MWD has been spent by Imperial Irrigation District on canal lining, reservoirs, spillage recover and other on-farm conservation methods in Imperial Valley, where inflow into the Salton Sea historically has exceeded one million acre-feet per year.

Structural improvements already in place will result in less water being diverted from the Colorado River to farm the same amount of crops, and less water flowing into the Salton Sea. This program currently saves 110,000 acre-feet per year

Inflow from Mexico, which has averaged more than 225,000 acre-feet per year, is affected significantly by reduced surplus water flowing into that country the result of a drought affecting the Colorado River and other circumstances such as construction of a wastewater treatment facility in Mexicali.

Water-efficient farming techniques and other factors already make the Coachella Valley a minor contributor only 80,000 acre-feet per year to Salton Sea inflows.

All told, a minimum of 80,000 acre-feet and more likely close to 190,000 acre-feet less water will be flowing into the Salton Sea without factoring in any of the trans-

fers outlined in the QSA. After a significant period of time, perhaps decades, this will lead to an additional 16,000 acres of exposed shoreline and a drop in the lake's level by eight feet to 235 feet below sea level.

Potential impacts of reduced inflows and a smaller sea are increased particulate matter (PM-10), odors and the far-fetched possibility of Dust Bowl conditions similar to those experienced in Owens Valley.

At present the Salton Sea Air Basin (SSAB) experiences nearly 175,000 tons of PM10 a year that is directly attributed to agriculture through fugitive windblown dust. Total PM10 exceeds 235,000 tons.

Because agriculture is the backbone of their economic well being, few people complain and no major program to solve the problem exists. This is similar to the reality that most residents of the Imperial and Coachella valleys have accepted and learned to live with certain odors that emanate from the Salton Sea now, when condition are just "right" or "wrong."

Those who worry about PM10 with respect to the Salton Sea use an example of 2,500 tons of it released into the air if the shoreline recedes, which represents less than 1.5 percent of what already is being released into Imperial County.

As for the issue of blowing dust, there is no good, solid scientific data to support Dust Bowl contentions. A student in the Coachella Valley, as a school science fair project, performed the only known study using actual Salton Sea soils, and his conclusions were negative.

Thrown into the debate is the argument that the Salton Sea is in far deeper trouble than just reduced elevation. The lake now is saline 45,000 parts per million (ppm) and if this condition is not reversed or stabilized, once salinity reaches 60,000 ppm this body of water will be on its way to becoming a dead sea because the high concentrations of salt will make it impossible for the fish to reproduce. Eventually the fish will die off, forcing several species of birds to look elsewhere for food. Many of these birds have no place else to go, some argue.

While this scenario if accurate certainly warrants concern, it will occur without the water transfers unless man intervenes, and does so at a significant level. This has no direct relationship to the QSA, provided that mitigation associated with impacts of the agreement are provided to ensure that the transfers do not hasten increased salinity.

With transfers and without following the salinity crisis could arrive one to 11 years earlier at the Salton Sea, which is expected to reach 60,000 ppm salinity in seven to 24 years if the status quo is maintained. At present the sea is headed toward super-salinity and environmental catastrophe, with or without the water transfers outlined in the QSA and other accords, without intervention.

Residents of the Salton Sea area and others argue it needs to be saved because it is unique. I would like to share with you information about an area I consider unique the Coachella Valley.

One of the attributes that makes the Coachella Valley unique is the nature of its economic foundation, which is built upon two vastly different industries agriculture and recreation. We boast some of the most productive (an average gross value of \$8,962 per acre) farmland in the world, and some of the most desirable places in which to enjoy resort-style living, either as a vacationing guest or a part-time or full-time resident.

In addition to sharing responsibility for making the Coachella Valley economically vibrant and alive, the agriculture and recreation industries have in common reliance upon a constant, dependable supply of water.

Implementation of the QSA is crucial to the Coachella Valley's ability to continue serving these two industries, and to the water district's ability to manage its groundwater supplies.

One important aspect of the QSA is that once all of its elements are in force, it ensures through quantification that Coachella Valley annually will receive entitlement to up to 456,000 acre-feet of Colorado River water.

It is worth noting that the first actual project designed to reduce California's dependency on Colorado River water involves the Coachella Valley Water District, where an estimated 26,000 acre-feet per year after environmental mitigations are factored in will be saved through the lining with concrete of the still-earthen portions of the Coachella Canal.

Our farmers use some of the most water-efficient techniques available. The district has 78,530 irrigable acres and of this, 62,116 acres are designated under United States Department of the Interior guidelines as agricultural. Nearly 59 percent of these 36,500 acres is on drip irrigation, the most efficient form available. Sprinklers irrigate another 11,957 acres, which is a more efficient method for delivering water than through ditches.

Most of our agricultural water comes from the Colorado River, delivered to the Coachella Valley by the Coachella Canal, a branch of the All-American Canal. Farmers in Coachella Valley who have converted to drip irrigation did so because it makes good economic sense, but some have been hesitant to utilize canal water for drip irrigation because of its silt content. As technology improves this is becoming less and less of an issue.

Our Water Management Plan calls for the conversion of agricultural well-water use almost entirely to canal water use by the mid-2020s. Eventually an estimated additional 75,000 acre-feet per year will come from the Coachella Canal instead of from local wells for appropriate uses within Improvement District 1.

This means less demand on the Coachella Valley's aquifer, which in recent years has been experiencing significant overdraft more water is being taken out of the ground than is going back in. This lower valley overdraft was more than 104,000 acre-feet in 1999. Recharging the lower valley aquifer presents unique challenges because of a thick layer of impermeable clay, but the district has implemented pilot programs and is confident the means will be found to replenish groundwater tables.

The QSA enables the Coachella Valley Water District to obtain an additional 155,000 acre-feet per year of Colorado River water, 100,000 acre-feet per year from Imperial Irrigation District and 55,000 acre-feet from other transfers.

Some of this water will be used to offset groundwater pumping. The balance will be available to recharge the lower aquifer with as much as 80,000 acre-feet per year, which will go toward eliminated overdraft.

Overdraft carries with it potentially significant, negative consequences. Water supplies are reduced, water quality is adversely affected and subsidence can occur. In worst-case scenario subsidence causes damage to homes, businesses, roads, water lines and other underground utilities.

Non-agricultural development resorts and housing developments in the lower valley has been booming at a pace that rivals our upper valley, so demand for water there is increasing the drain on the aquifer and will continue until adequate water supplies are available for recharging. Additional supplies of Colorado River water as provided for by the QSA appear to be the only viable alternative at reasonable costs.

Agricultural interests are at a minimum in the upper portion of the Coachella Valley, which has developed into a world-renowned resort and recreation destination. Well in excess of a million people visit the Coachella Valley each year, playing golf and tennis at its resorts, dining in the area's plethora of fine restaurants and shopping in a vast array of shops and boutiques.

Recreation is a major industry in Coachella Valley, employing thousands of people at numerous salary levels, and putting tens of millions of dollars into the local economy.

Thousands of people many retired but all ages are represented specifically move to the Coachella Valley each year to enjoy a lifestyle that centers on recreational activities such as golf and tennis, and entertainment such as fine dining, the arts and live theatre.

This growth, while a tremendous boost to the economy, has been a significant drain on the upper valley's aquifer, which is easier to recharge and already receives significant replenishment through our participation in the State Water Project.

Through an arrangement with the Metropolitan Water District, we exchange "bucket-for-bucket" our entitlement to State Water Project water for MWD water from the Colorado River Aqueduct. This water is used to recharge the upper aquifer at percolation ponds west of Palm Springs, but overdraft still exceeds 32,000 acre-feet per year.

The QSA provides for another agreement between CVWD and the MWD for entitlement to an additional 50,000 acre-feet of State Water Project water for use in the upper valley. Much of this will be used to recharge the upper aquifer, but some also will be used as we continue to encourage golf courses and other large volume water users in the upper valley to convert from well water to other sources for non-potable purposes such as irrigation. These sources include recycled water from our wastewater reclamation facilities and canal water.

Our Water Management Plan calls for significant reductions in water use throughout the Coachella Valley 10 percent for domestic use, five percent for existing golf courses and seven percent for agriculture. But the success of our plan will be jeopardized if the QSA is not implemented. Adequate water supplies will not be available at reasonable costs.

Failure of the QSA to be adopted and suspension of the Interim Surplus Guidelines could result in a loss of up to 200,000 acre-feet per year of water for Coachella Valley in some years. Outside sources of water under the 70R Strategy operating plan, if the QSA is not signed, could be drastically reduced, especially when MWD

is forced to claim a greater share of its State Water Project entitlement and water purveyors statewide scramble to find adequate supplies. There is no doubt prices will skyrocket, with costs passed on to the consumer. In worst case scenarios, water will not be available at any cost.

The Coachella Valley will have a difficult time surviving a water shortage. This would be devastating to our agricultural industry. Our farmers already are highly efficient in their use of water, so restrictions on them would be difficult since there is little or no room for additional conservation. Such a request also would be extremely unjust since they already have initiated conservation efforts on their own, without government subsidies or special treatment.

Golf courses are perceived as water-wasters and they do use a lot of water, but very efficiently. Those responsible for golf course irrigation already are employing a variety of water conservation techniques. As mentioned, the district is working with existing courses to encourage greater use of recycled and canal water, and we are encouraging local communities to support a valley-wide, uniform landscaping ordinance that will focus on the use of native and other use low water-use vegetation.

For the Coachella Valley's economy to stay healthy the recreation industry must stay healthy, too, and this means ensuring that golf courses and other resort facilities have adequate sources of water. This is an incredibly competitive market with little margin for error. There are resort communities throughout the world that would love to see us falter so they could grab a piece of the recreation pie.

Thousands of people rely on the resort-recreation industry for their livelihood and tens of millions of dollars flow into the local economy because people recognize the Coachella Valley as an ideal location to enjoy life.

I would like to conclude my testimony by reviewing concepts I first introduced during testimony on Wednesday, May 29, in Sacramento before the state Water Resources Control Board.

A frequent argument against fallowing as an effective method for conserving irrigation water in Imperial County is that taking farmland out of production will have serious, negative economic and social impacts on the affected areas that rely on agriculture for their economic well being.

Thousands of people will lose their jobs, critics of fallowing argue, and the local economy will lose millions and millions of dollars. Those businesses that rely on agriculture including seed companies and fertilizer makers and farming equipment manufacturers all will lose revenue as a result of fallowing. Farm workers will be laid off, and the hard-earned dollars they received toiling in the fields will not be spent to buy food, clothing and other goods and services. This creates a chain reaction with people who work in fast food restaurants and markets and theaters and clothing stores and seed companies and farm equipment sales and service businesses all losing their jobs.

Businesses close up, people move away and the entire Imperial Valley resembles Oklahoma's Dust Bowl during the Great Depression.

It's a dismal picture that the critics of fallowing paint, one likely to cause almost anyone to stop and wonder: Is it worth it, taking farmland out of production so that water can be shipped to other parts of the state?

The problem with this doom-and-gloom scenario is that there is no need for it to occur it's a ghost story really, heavy on the fright, light on the facts and it won't happen if everyone involved uses a little common sense.

Any discussion of fallowing should focus on taking out of production only land used for low value (gross value per acre), highly mechanized, low labor-intensive, high water-use crops. Almost without exception this means field crops, not garden (vegetables, some fruit) or permanent crops, such as citrus.

It is important to understand that no farmland will be permanently taken out of use by fallowing. Instead, an effective schedule would be created to ensure that fallowing is equitably rotated among eligible farmland. And, land management principles will be utilized to mitigate potential weed and dust problems.

Further, through the fallowing of land the economics of farming will improve through supply and demand. Taking alfalfa out of production will mean a higher market price, benefiting those farmers in Imperial Valley who continue to grow hay. One study estimates an increase of more than \$11 a ton.

Suppose those farmers selected to participate in fallowing go about their business as usual with one notable exception they don't water their crops. We'll focus here specifically on alfalfa hay (all types: flat, row and seed) farmers, who in the year 2000 were responsible for 196,077 acres. That's 47 percent of all field crops in Imperial County, 37 percent of Imperial County's 537,076 acres of crops that year.

To free up enough water to enable the Imperial Irrigation District (IID) to transfer 200,000 acre-feet per year to the San Diego County Water Authority (SDCWA), and an additional 100,000 acre-feet per year to the Coachella Valley Water District

(CVWD) and to do so without having a negative impact on the Salton Sea an estimated 82,000 acres of hay acreage needs to be fallowed.

Eighty-two thousand acres seems like a lot, but it represents only a little more than 15 percent of Imperial County's agricultural acreage in 2000 hardly a Dust Bowl scenario, but let's get back to our alfalfa farmers.

Suppose our fallowing phantom farmers do everything they did when they actually grew alfalfa with that one important exception they use no water.

Each farmer prepares his soil just as he did before; purchases the seed and insecticides and fertilizers needed as in years past; hires the appropriate number of employees to plant, irrigate, tend to and harvest the crops; perhaps operating tractors and other machinery as if he was growing hay; even factors in costs associated with equipment repairs, replacement and other capital improvements.

If every year the farmer spends 'X' amount of dollars having his equipment repaired, he goes ahead and pays the appropriate vendors whatever he would have spent for this service; buying new equipment as needed, too.

In the end agriculture's bottom line stays the same, in fact farmers are a little ahead of the game because they are going to get a bonus for participating more about that later. Since everyone involved in the production of alfalfa is getting paid what they would have received there is no negative impact on the local economy! The vendors continue to get paid, and in turn do business with their wholesalers and other suppliers. The workers get paid, so continue to pay their mortgages or rent and buy food and clothing and automobiles and appliances and other goods and services.

So the fast food worker doesn't lose her job and the cashier at the market doesn't lose her job and the tractor salesman and the automobile repair guy keep their jobs and life pretty much goes on as it did before fallowing.

How is this possible?

In simple terms: money. Lots of money.

The purchase of conserved water from IID is going to create vast resources of revenue. Water has become a very valuable commodity. The same water that a farmer is charged about \$15.50 an acre-foot is worth more than \$250 an acre-foot to thirsty urban customers in San Diego County. The average cost that SDCWA and CVWD will pay IID for water is \$231 per acre-foot.

When you factor in the amount of water used per acre of crop, per year, for alfalfa, we discover that with respect to water each acre will be worth \$845.46 to IID from the water purveyors receiving the transfer. Here's how that works.

An acre of land within IID boundaries requires 5.63 acre-feet of water per year. Of this, 35 percent is field run-off, so 1.97 acre-feet per year ends up in the Salton Sea. Assume for the sake of argument that this nearly two acre-feet of water per acre is allowed to continue to reach the Salton Sea through some means.

Since the Salton Sea continues to receive the same amount of water as it did before, fallowing has no negative impact on this body of water.

Which leaves 3.66 acre-feet of water allocated to the farmer, which SDCWA and CVWD are willing to pay an average of \$231 per acre-foot to receive. So these water agencies are, in effect, paying IID \$845.46 for every acre that is fallowed.

From this amount the farmer receives the same gross revenue per acre he would have received had he grown alfalfa \$665. For 82,000 acres this represents \$54,530,000, and again, this is more than \$54.5 million that stays in the local economy, and is equal to what the farmer has received in the past worry free. Fallowing farmers need not worry about crop failure or pestilence or any of the dozens of other things that can go wrong with a crop.

From the original \$845.46 this leaves \$180.46 per acre. IID receives a management fee of 5%, \$42.27 per acre, which at \$3,466,386 more than offsets the expenses of administering the fallowing program enough money to hire 50 people as full-time employees.

IID also receives a little less than \$5 (\$4.76) per acre to offset lost revenues from power generation since transferred water will not be flowing through the agency's generators along the All American Canal.

And, Imperial County receives about \$4 per acre under the Williamson Act, reflecting potential lost payments for prime versus nonprime agricultural land.

So far the local economy has lost no revenue, IID has lost no revenue and the county has lost no revenue. If anything, more money is flowing into the local economy.

And we still have \$129.43 per acre left over, which represents a healthy bonus that can be paid to the farmer for fallowing his land, or to pay any costs not already outlined above.

When multiplied by 82,000 acres, this bonus represents \$10,613,260, which is a potentially significant boost to the local economy; in fact, in revenue generated by

agricultural acreage this is 13 percent more than what was being brought in from alfalfa growing alone.

Now, we are not actually suggesting that farmers go out and grow crops without water. What we are suggesting is that the transfer of water from IID to SDCWA and CVWD generates more than enough money to ensure that the negative socio-economic impacts predicted by the naysayers will not occur.

The transfer of 300,000 acre-feet per year from IID to SDCWA and CVWD will generate more than \$69 million.

If 82,000 acres are fallowed, and farmers are compensated as outlined above, there will be more money poured into the local economy, not less, and with a little imagination Imperial County actually can be turned into a better place to live.

Suppose you pay those farm workers the same wages but instead of having them participate in phantom farming, you assign them to badly-need public works projects that will improve the areas where they live and work; or establish training programs that offer these men and women the skills necessary to obtain and keep better paying jobs, leading to better social and economic conditions for everyone.

In the process the Salton Sea continues to receive the same inflow it would have gotten without fallowing. This eliminates it as an obstacle to successful completion of current efforts to reduce California's dependency on Colorado River water.

With 82,000 acres fallowed, 300,000 acre-feet of conserved water is transferred to SDCWA/CVWD, this leaves 161,660 acre-feet, less various losses, for the Salton Sea, the same amount that it receives in agricultural runoff from the land proposed for fallowing.

On-farm conservation methods reduce the amount of runoff into the Salton Sea by the amount of water conserved. So if these methods are used to free up 300,000 acre-feet for transfer, that is 300,000 acre-feet that is not going to go to the Salton Sea.

If we do not find our own solutions, including fallowing, there is the potential that sufficient water will not be available to irrigate the crops in Imperial County and elsewhere. Then you have no choice but to conserve, and to do so without fiscal compensation. Then there will be tremendously negative social and economic impacts.

We've used alfalfa as our example here, but if the list of eligible field crops is expanded to feature others with a gross value of less than \$665 per acre, excluding pasture but including Bermuda Grass, cotton seed, Sudan Grass and wheat only 23 percent of these lands need to participate to generate the water required for the transfers.

This leaves garden and permanent crops totally unaffected by fallowing, which is tremendously important because these crops are much more labor-intensive, especially during and after harvesting.

Phantom farming can keep Imperial County from becoming the "Ghost County" that fallowing critics claim it will become if acreage is taken out of use.

Mr. LEVY. I'd also like to thank Congressman Calvert and Congresswoman Mary Bono and Congressman Hunter, Senator Feinstein, for what I thought was a very excellent meeting this week in Washington, D.C. in which we left the meeting with a commitment that we would come back within the next 2 weeks with a plan from the water agencies on how to put in a temporary program that would allow the QSA to go forward and to address the Salton Sea issues or provide time for Congress and the state legislature to address the Salton Sea issue.

So I think there is potential of progress there, and I hope in 2 weeks to be able to report back to you that we have had very successful and meaningful meetings. Thank you.

Mr. CALVERT. Thank you, gentleman.

Mr. Wyatt?

**STATEMENT OF GARY WYATT, MEMBER, IMPERIAL COUNTY
BOARD OF SUPERVISORS, CALIFORNIA**

Mr. WYATT. Thank you, Mr. Chairman, Ms. Bono, and members of the California delegation.

Imperial County is grateful that you've honored our request to be included in the meeting today, and be able to present a policy statement at the hearing.

Imperial County represents the government of general jurisdiction embracing all of Imperial Valley's inhabitants, its agriculture, its urban development, its unique resources of the Colorado River and the Salton Sea, all of the interests that your Committee must consider in the area from which the water transfers originate.

Throughout the environmental process Imperial County has raised the following concerns: The viability of our agriculture, the future needs of our urban economy, the health of the Salton Sea and the rest of the county's environment, and above all, the still unfulfilled need to define and force mitigation measures that meet all of our needs beyond those confined to the individual farmer.

In agriculture we are concerned that the water transfer and its impacts are not fixed. We are told that the transfer could be accomplished with no permanent fallowing or tens of thousands of acres of fallowing representing in excess of 300,000 acre-feet annually.

This year virtually each month has brought a new proposal on whether and how fallowing should be addressed, but no resolution. We need to ensure that during and after a long-term water transfer, sufficient water is reserved for our own reasonable and foreseeable future needs. With our population expected to double by 2020, we visualize a need for 120,000 acre-feet annually for our own domestic needs.

At the Salton Sea we obviously identify economic, scenic and recreational resources, and those qualities deserve protection. But even more fundamentally we cannot allow the Salton Sea or adverse air quality from fallowed fields to threaten the very health of our people and the livability of our county.

Finally, we need to establish and enforce mitigation measures to confine and offset these impacts. To fulfill the mandates of state law, we must finish the job that the EIS's and the EIR's did not. We must identify the recipients of compensation for so-called third-party impacts, and insure that the proper beneficiaries of the transfer, San Diego consumers in particular, and the people of the United States and California in general, provide this compensation.

In 1998 the county board of supervisors adopted a no-non-temporary fallowing policy. The policy was honored in the November 1998 transfer agreement and also ratified by the California legislature in its 1999 amendment to Section 1011 of the water code, which recognizes only temporary fallowing as a source of conserved water for transfer. The county continues to overwhelmingly prefer a no-permanent fallowing transfer.

Unless Water Code Section 1011 is modified again, state law is not authorized. We praise the initial efforts of the IID and San Diego to produce a transfer arising solely from onfarm and system conservation, and will argue that all the various arrangements, the IA, the QSA, and this transfer, be adjusted to accomplish that result and still maintain the Salton Sea.

If, despite the best efforts of all, a long-term supply of the water from fallowed Imperial Valley land becomes preferred, the use of water conserved from fallowing must be conditioned upon the IID first preparing and adopting a program for producing that water,

and securing the concurrence of Imperial County that land fallowing conservation measures will not produce unreasonable economic or environmental impacts. Our concurrence is necessary to ensure all the interests we represent in this valley are protected.

Salton Sea stability must be assured. And economic losses to local government and districts, both lost tax revenues and social service costs, must be compensated.

Imperial County has requested by letter dated June 5, 2002, to the Bureau of Reclamation that both of the draft environmental impact statements be withdrawn and a revised draft recirculated prior to proceeding to final statements.

The draft documents fail to identify significant impacts that have been subsequently discerned, and do not include the type of fallowing project that is now being promoted by California political leaders. Rewriting the EIS's to reflect existing knowledge and proposals will give the Bureau of Reclamation and California entities, including Imperial County, which has not been part of the prior QSA negotiations, an opportunity to reach the consensus that has eluded us to date.

If there was one immediate action this Committee can contribute it will be to encourage the Bureau to recognize the inadequacies of the existing EIS's, and to take the time to cure the deficiencies, and not penalize California for the time it takes for Federal agencies to comply with Federal law.

Decisions are being made for the next two generations of Imperial County residents and all of Californians. And we are entitled to have those decisions be the best possible.

I ask that my written testimony previously submitted be added to the record. And we appreciate the opportunity to make the presentation today.

[The prepared statement of Mr. Wyatt follows:]

Statement of Gary Wyatt, Representing the Imperial County Board of Supervisors

INTRODUCTION

We in Imperial County are grateful that you have honored our request to present a policy statement at this hearing today. We appreciate your effort to travel to our region and spare those from whom you will hear today the greater effort it would require to travel to Washington. We also hope that by being here for even one day you will take away an appreciation of the vibrant economy and environment that we are working to preserve.

Imperial County recognizes foremost that it is part of California—both legally and politically. We appreciate the great challenge facing our State to bring its use of Colorado River water to within the budget decreed by Congress and the Supreme Court. We are not responsible for the State's exceeding that budget in the years since the labor and industry of Imperial County pioneers conceived and established here one of the world's greatest agricultural producing areas. But we are willing to collaborate with other units of Federal, state, and local government to help solve the problem, recognizing as one Court of Appeal Justice wrote many years ago that in matters of water Californians must share the burdens together.

Together we need to find a solution that works for California, a solution that also works for Imperial County. I will shortly describe our County's unique interest and role in this process. Beyond our participation here and in Sacramento, know that we have and will continue to devote special efforts to work with our local water agency, the Imperial Irrigation District. We are mindful of the important role that IID plays in the history and use of water in California. In that respect we are a proud parent, because we know that it was the elected leaders of Imperial County's government who took the initiative to create the Imperial Irrigation District and seek changes to the Irrigation District Act that would enable IID to succeed in its

bold ventures. We have looked and will continue to look to IID not only as our fully-grown offspring, but also more importantly as our collaborator and lead agency with authority to refine its water transfer proposal” before final approval.

INTERESTS OF THE COUNTY OF IMPERIAL

Imperial County has a unique role in the water transfer issue. We represent the government of general jurisdiction embracing all of Imperial Valley’s inhabitants, its agriculture, its urban development, and its unique natural resources of the Colorado River and Salton Sea. Our elected Board of Supervisors represents all of the interests that your Committee must consider arising in the area from which the water transfer originates. We are charged to protect them all and not elevate one to the disregard of the others. In a certain sense, we have the most I at stake in the water transfer process, because of the breadth of our interests, coupled with the fact that as a proprietary matter we are nominal outsiders to the water transfer and have not to date participated in its formulation. While we are working with the principals to the transfer, in the end we rely on state and Federal agencies to protect the breadth of public interests that we represent.

In an economic sense, Imperial County represents an agricultural economy that is valued in excess of one billion dollars annually, and that produces an annual tax roll to the County and its school and other local districts of \$ 10,000,000 and annual sales tax revenues of \$47,000,000. More than 11,000 of our inhabitants are engaged in this industry that produces a great share of our Nation’s annual crop of lettuce, carrots, wheat, asparagus and melons. This important resource is also a vulnerable one; depending on agricultural markets and natural conditions, our unemployment rate can exceed 25 per cent—more than any other county in California. Before this valley enters into a long-term transfer of water away from this economy, we must be certain that we have comprehended the impacts and found ways to ensure that our agriculture continues to thrive.

Our economic interests also include those of recreation. Income to Imperial County from Salton Sea recreation exceeds millions of dollars annually. That economy would evaporate in dollar terms in direct proportion to the evaporation of the Salton Sea into a lifeless world, or worse, a nuisance. As with agriculture, at the Salton Sea we must be certain that we have comprehended the impacts and found ways to ensure that the Sea continues to survive.

As a County we are uniquely situated with respect to the Colorado River. While “counties of origin” are usually thought of as those in the Sierra foothills that give rise to the great rivers of the north, we are quite literally the county of origin for most of California’s Colorado River resource. Like those northern counties of origin, we have no other source of water than that which is provided by the Colorado on our eastern border. In a more specific category, we are also the county of origin of the proposed water transfer. We are grateful that state law and the model water transfer code recognize and protect the County’s unique interests. However, we must ensure that the ultimate Imperial–San Diego agreement becomes literally a “model water transfer.”

IMPERIAL COUNTY’S AREAS OF CONCERN

Throughout the environmental process, Imperial County has raised the following concerns: the viability of our agriculture; the future needs of our urban economy the health of the Salton Sea and the rest of the County’s environment; and above all, the still-unfulfilled need to define and enforce mitigation measures that meet all our needs, beyond those confined to the individual farmer.

In agriculture, we are concerned that the water transfer and its impacts are not fixed. We are told that the transfer could be accomplished with no permanent fallowing or tens of thousands of acres of fallowing representing in excess of 300,000 acre-feet-annually. This year virtually each month has brought a new proposal from or to our constituents on whether and how fallowing should be addressed, but no resolution. We are told that the transfer is desirable because it relies on “willing buyer willing sellers”—and yet that is exactly what Los Angeles told the farmers of the Owens Valley in the 1920s, which resulted in total and ultimately unnecessary destruction of agriculture there.

In the urban sector, we see the need to combat our high unemployment with a diversified economy, as more people are attracted to our County and its uncrowded lifestyle. We need to ensure that during and after a long-term water transfer, sufficient water is reserved for our own reasonable and foreseeable future needs. With our population expected to double by 2020, we visualize a need for 120,000 acre-feet-annually for our domestic needs by that time.

At the Salton Sea, we obviously identify both an economic, and scenic and recreational resource. Those qualities deserve protection. But even more fundamen-

tally, we cannot allow the Salton Sea to become a nuisance that threatens the very health of our people and livability of our County. Our air quality experts tell us that without foresight the Salton Sea could become another Owens Lake, but unlike Owens Lake we cannot afford to wait more than three-fourths of a century to abate a nuisance once created. We also fear adverse air quality from fallowed fields.

Finally, even as we assess these concerns under the labels of environmental and economic impact, we need to define, establish and enforce mitigation measures to confine and offset those impacts. We are grateful that the draft impact statements prepared by the Bureau of Reclamation and IID recognize and attempt to quantify those impacts. Our experts are attempting to validate or refine those assessments. But to fulfill the mandates of State law we must finish the job that the EISes and EIRs do not do: we must identify the recipients of compensation for so called "third-party impacts," and ensure that the proper beneficiaries of the transfer and these we view as a combination of San Diego consumers in particular and the people of the United States and California in general—provide this compensation.

THE COUNTY OF IMPERIAL'S POSITION IN THIS! PROCEEDING

In 1998 the Imperial County Board of Supervisors responded to I the initial transfer proposals by adopting a "no non-temporary fallowing" policy. That policy was honored in the November 1998 transfer agreement and also ratified by the California Legislature in its 1999 amendment to section 1011 of the Water Code, which recognizes only temporary fallowing as a source of "conserved water" for transfer.

The premises of the County's "no-fallowing" policy have been, challenged in two respects. First, to "purchase peace" from the Metropolitan Water District and Coachella Valley Water District in the QSA, IID agreed to make available transferred water to those districts. Second, in the past four years we have all become aware of the unanticipated impacts of the proposed transfer on the Salton Sea.

The County continues to overwhelmingly prefer a no-permanent-fallowing transfer. Unless Water Code section 1011 is modified again, state law does not authorize more (and IID and San Diego cannot voluntarily opt out of that provision). We praise the initial efforts of IID and San Diego to produce a transfer arising solely from on-farm and system conservation, and will argue that all the various arrangements (1A, QSA, and this transfer) be adjusted to accomplish 1nat result and still maintain the Salton Sea.

The County asks that action be required in the Metropolitan and San Diego service areas to wean off any transfer and onto desalinization as time progresses. Development of this (or another alternative) in the coastal plain should parallel Imperial County's anticipated future needs for both the urban and agricultural sectors. As stated above, we anticipate in the next two decades to double our domestic water need to 120,000 acre-feet-annually. It is reasonable to require that the coastal areas by year 2020 produce at least that much from desalinization, to return water to meet both our growing urban need and also future demands for agricultural development in the Imperial Valley. To date, the transfer has assumed that it will increase in volume over time, when in the reality of our own needs and new technology, reduction over time is compelled. I

Finally, if despite the best efforts of all, a long-term supply of water from fallowed Imperial County land becomes preferred, the use of water "conserved" from fallowing must be conditioned upon the IID first preparing and adopting a program for producing that water, and securing the concurrence of Imperial County in that program. Our concurrence is necessary to ensure that all the interests we represent in this valley are protected. Before implementing such a program, it must be subject to a second-tier environmental assessment that follows on the successful completion of the water transfer assessment now being conducted. Compliance with or modification of Water Code section 1011 with the concurrence of Imperial County must be achieved. Salton Sea stability must be assured. And economic losses to local government and districts, embracing "both lost tax revenues and social service costs, must be compensated.

The County of Imperial's concern is that any "fallowing-based" transfer be preceded by preparation and adoption of a systematic program that addresses economic and environmental impacts, meriting the concurrence of the County of Imperial.

In addition, Imperial County has requested by letter dated June 5, 2002 to the Bureau of Reclamation (see attached copy) that both of the draft environmental impact statements (Water Transfer EIS/EIR and IA/IOP EIS) be withdrawn and a revised draft recirculated prior to proceeding to final statements. As noted in the letter, the draft documents fail to identify significant impacts that have been subsequently discerned. Moreover, the existing drafts do not include the type of fallowing project that is now being promoted by California political leaders. (Because the best evidence of our position appears in the testimony taken by the State Water Re-

sources Control Board, we are also providing the Committee with a copy of all state board transcripts completed to date, and will forward the remaining three transcripts as soon as they are completed.) Rewriting the EISes to reflect existing knowledge and proposals will give the Bureau of Reclamation and California entities (including Imperial County, which has not been part of the prior QSA negotiations) an opportunity to reach the consensus that has eluded us to date.

If there is one immediate action this Committee can contribute, it will be to encourage the Bureau to recognize the inadequacy of the existing EISes, and to take the time to cure that deficiency, and not penalize California for the time it will take for Federal agencies to comply with Federal law. Decisions are being made for the next two generations of Imperial County residents and all Californians, and we are entitled to have those decisions be the best possible.

The County of Imperial appreciates the opportunity to submit these comments to your Committee and we look forward to working with other parties toward a resolution that values all interests.

[An attachment to Mr. Wyatt's statement follows:]

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June 5, 2002

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Bruce Ellis, Chief
Environmental Resources Management Division
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U.S. Bureau of Reclamation
P.O. Box 81169
Phoenix, AZ 85069-1169

Re: Water Transfer EIS/EIR and IA/IOP EIS

Dear Mr. Ellis:

The County of Imperial by this letter formally requests the Bureau of Reclamation to determine that both of the subject draft environmental impact statements (EIS/EIR, and EIS) will be withdrawn and that the Bureau will proceed (and in the case of the water transfer, in collaboration with its state lead agency Imperial Irrigation District) to recirculate a revised draft statement prior to proceeding to final statements.

By copy of this letter to the four "co-lead" agencies for the Quantification Settlement Agreement state environmental impact report (EIR) the County of Imperial requests similar action with respect to that draft EIR.

Our request is grounded in the information that we have learned from the comments of other participants in the review of these draft documents, and from our participation in the many days of hearings before the California State Water Resources Control Board (State Board) on the subject of the water transfer. Those State Board hearings have included two days of testimony presented by the petitioners Imperial Irrigation District (IID) and San Diego County Water Authority (SDCWA) in support of the water transfer EIS/EIR.

Based on what has now been placed in the public record, no question can remain that the present draft EIS/EIR fails to assess impacts of the currently-proposed transfer on growth induction in San Diego, and air quality in Imperial County. The former impact is

of great concern to us, because failure to assess it means failure to assess and compare alternative means in San Diego of attaining that community's perceived future needs -- alternatives that might require less export of water from Imperial Valley, thus serving our needs of a thriving agricultural economy and stabilized Salton Sea. The latter impact also greatly concerns us, as we cannot support a proposal that would induce unhealthy air quality degradation arising from either an exposed Salton Sea shoreline or programmatic fallowing of agricultural land.

We understand that the law of both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) require recirculation of a draft document when the initial draft failed to identify significant impacts that have been subsequently discerned. That is the case here. SDCWA's general manager verified in testimony at the State Water Board that her agency's application is grounded in part on the need to accommodate future growth in San Diego. The Bureau's own assessment in the IA/IOP draft EIS recognizes that the proposed transfer will make additional water available in San Diego beyond the "no action" baseline condition of reduced Colorado River supplies to California. With respect to air quality, both our expert and one from the Great Basin Air Pollution Control District verified the air quality risk, with rebuttal by the project proponents' EIR consultants not at all informed or convincing.

To these circumstances must now be added the likely prospect that a new alternative will be made available to IID and SDCWA for their transfer, one that features a long-term fallowing program. Such a program will require, as all seem to recognize, changes in the California Water Code. Such a program, as attested to by the SDCWA general manager at the State Water Board hearing of May 30, has *not* been evaluated in the existing draft EIS/EIR. And yet if formulated, such a fallowing program seems to be one that political leaders are strongly recommending that IID adopt. A revised draft EIS/EIR will enable such a program to be identified and assessed to enable the respective public agencies to determine its acceptability.

The County of Imperial was thus not surprised, but grateful, to read in our local press last week that the Bureau of Reclamation was calling for a "rewriting" of the EIS/EIR. We have been unable to verify this report from the Bureau, however, or ascertain whether the Bureau would be calling for a rewrite of the draft EIS/EIR and its recirculation prior to issuance of a final document.

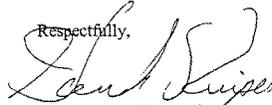
We believe that all the interested parties have much to gain from recirculated drafts of all three environmental documents associated with or dependent upon the water transfer. First, the existing analytical deficiencies can be cured. Second, a revised draft will enable inclusion of the newly-suggested long-term fallowing program. And third, recirculation of all three documents will cure deficiencies in all three, as both the IA/IOP and QSA documents rely on the water transfer document for evaluation of that component's impacts. In short, recirculation of all three documents concurrently will meet the valid criticisms of the U.S. Environmental Protection Agency that these three "inextricably linked" reports enjoy concurrent public circulation, which has been lacking to date.

Finally, we are calling on the Bureau of Reclamation to make its determination on the two federal documents because federal leadership is indispensable to eliminate the "train wreck" that otherwise threatens all the affected parties. We all understand the pressure that California in general, and the IID in particular, face to move forward with progress on reducing the State's use of Colorado River water. If left to make the call on their own, the IID board of directors will require remarkable courage to order recirculation of the draft EIS/EIR on their own. The federal Bureau, however, making that call to fulfill its own federal legal duties, and in behalf of all the interests served by the Colorado River, can prove to the other Basin states that circumstances beyond California's and IID's control have created the need for additional environmental review.

In the end, the additional environmental review offers the greatest chance of ultimately producing a California consensus lawfully as soon as possible. There has been much discussion of late of the limited flexibility that the interested parties face because of a December 31, 2002 deadline. We are convinced, however, based on our experience in the State Water Board and other proceedings, that the collective flexibility of all will be sharply diminished if a premature and unlawful decision were made, instead of taking the additional time to formulate an assessment of the water transfer that will ultimately take place. By producing revised environmental assessments addressing the issues identified here, and by other participants in the environmental review, the interested parties retain the flexibility and discretion that would be lacking if an unacceptable solution were forced into the judicial arena.

The County of Imperial appreciates the opportunities to make this request while time remains to grant it, and remains committed, as we have in the review and State Water Board proceedings to date, to work with the other parties toward a resolution that values all interests, including ours in the environment and economy most at stake in these proceedings.

Respectfully,



HANK KUIPER, Chairman

cc: Senator Dianne Feinstein
 Senator Sheila Kuehl
 Assembly Member Joe Canciamilla
 State Water Resources Control Board Chair Art Baggett, Jr.
 Director of Water Resources Tom Hannigan
 Jesse Silva, General Manager, IID
 Maureen Stapleton, General Manger, SDCWA
 Ronald Gastelum, Chief Executive Officer, MWD
 Tom Levy, General Manager, CVWD
 Lisa B. Hanf, Manager, USEPA Region 9 Federal Activities Office

Mr. CALVERT. Thank you, gentlemen.

Over the last couple of years I've gotten to know all of you, I think, in one fashion or another, working with you in various ways in trying to get the positive conclusion to this problem. And we're running out of time to do that. And I guess we—all the eyes are on Imperial County right now, as Mr. Horne and Mr. Wyatt pointed out in their testimony.

And I'd go back to that famous character in our past, when Willie Sutton was asked why he robbed banks, he said, "That's where all the money is." I guess that's why they're all looking at you, is because that's where all the water is, Imperial County. Most people don't know that throughout the city—I know people in this room—that Imperial County has, because of the hard work and protecting the water rights there in the Colorado River, have a substantial amount of the water of the 4.4., over three million acre-feet of water.

And so here we are today trying to work out some kind of an accommodation to work with the Imperial County. And I recognize the difficulties that Imperial County has. It's one of the poorer counties in the State of California, high unemployment rate, totally—almost the entire economy is dependent upon agriculture. And so—and the way things work in Imperial County is that the people own that water. It's not a land-based system. Voters in Imperial County elect the board of supervisors and they elect the Imperial Irrigation District. So you have a special responsibility, and I understand that.

And the reason I know, I have been visiting the county and talked to a number of folks out there on a number of occasions to see if we can't make this a win-win situation, where Imperial County benefits from economic development in the valley. And certainly I don't think anyone here wants to hurt the economy of Imperial County, while we work toward a water transfer and to execute a Quantification Settlement Agreement that the State of California desperately needs in order to move forward.

So I guess first of all I'll ask Mr. Horne, you mentioned in your testimony you're still committed to help us try to get to a conclusion on this QSA. What do you think is a possible solution to this problem?

Mr. HORNE. Boy, if I knew the answer to that, I'd be sitting up there. That is the question of the day, Chairman Calvert. And I think that, you know, many people are quick, as I pointed out, to seize on this concept of fallowing as an answer. And although I can certainly understand that willingness to look at that option, and the desire for us to go that route, I think it is again fraught with a number of pitfalls, including not just the third party impact, but as I mentioned, the lack of any protection it provides us in terms of improving our reasonable and beneficial use that has come into question by some other agencies, including the Federal Government, and also this issue of where that type of program will stop in the future.

As California continues to grow, as other environmental needs for water, including the Salton Sea, the Mexican Delta, the Lower Colorado River are identified, we believe, as you said in your Willie Sutton reference, that we are aware they will come to get that

water. So we have a great deal of squeamishness about embarking on that type of program without fully understanding the ramifications, not only for today in terms of the impact to our economy, but what it might hold for the future.

Mr. Levy and others suggestion of a temporary fallowing program reminds us of the concept of being a little bit pregnant. You know, once you start with a program like that, when will you stop. And once you've agreed that you would fallow ground, who's going to let you off the hook down the road.

If we wait for solutions to the Salton Sea to be identified as a condition to agreeing to be let off the hook for fallowing—I sit on the Salton Sea Authority board. I think I have some understanding of some of the issues at hand there and the lack of funding that might hold up that process.

And so I'm not at all comfortable with agreeing that, yes, we would fallow until, you know, we figure out what we're going to do with the Salton Sea and then we'll go back to whatever we were going to do before. That just doesn't hold out a great deal of hope for us.

I think under the current set of circumstances, given the lack of time, that we had better figure out a way to—in our opinion, at least, to allow the current transfer to go forward and figure out—perhaps we'll involve some adaptive management principles to be—to be implemented either at the sea or perhaps it will involve some reduction on the quantities of water that are going to be transferred. And with some idea that they could be ramped up if the impact either on the sea or to our economy might be addressed.

So I think we'd better try to figure out a new way to do it within the current framework. Because we do not have time to go back to square one between now and the end of the year and try to figure out what all these impacts for massive land fallowing programs in Imperial Valley might be, not only just in terms of quantifying, as I indicated in my remarks, but also how do you mitigate. I don't think the—in all deference to the Federal Government, or even the state government, that the government, including IID, has been very good in that— would be very good at creating jobs. We have—some have suggested a job training program would be added. When you get to the end of the pipeline of a job training program, the hope is the expectation would be that there is a job waiting at the other end of that pipe.

As you indicated, we are a high-unemployment county. We don't have those jobs. Today our jobs are primarily based in agriculture. And if we start drying up productive farm ground as a way to meet California's water supply problems, we have crippled ourselves in terms of our future. And I think the people of the county, Mr. Wyatt certainly, echoed some of the concerns.

Mr. CALVERT. Mr. Wyatt, do you have any additional comment regarding Imperial County and how—

Mr. WYATT. Certainly, as a politician I'd always have further comment.

But there are certainly several issues that Mr. Horne raises that I'd agree with. And the issue of what has come to be known as a slippery slope as a great concern to the people in Imperial County

is where, if you begin a water fallowing program, where do you stop.

The next time there is a need for water, again, Willie Sutton comes back to the bank. And we have that concern as well. We share some of the other concerns that he has, that he expressed. And we don't have a lot of disagreement with that. Perhaps one of the things is that as a county we've not been involved in a process and that's one of the things I brought up in my statement is that we feel that we need to have a position at the table, especially since we represent the economic interest of a great deal of the county, not just the farming interest of the county, but we represent those as well. So we do have some great concern with that. So we need to be—we feel we need to be a part of the process to solve the dilemma.

We do have a log jam that certainly needs to be moved—broken apart here rather quickly and rather soon. And we hope to be a part of that solution, a part of the discussions to help to move that along. Perhaps we need to be involved in more of the public discussions.

One of the problems we have in Imperial County as anywhere else is the ability or opportunity to educate the general public. As you know, it's a very difficult task to educate them very well on any particular issue, but on this particular issue they have some education but primarily it's on—you know, most people are very afraid of what the fallowing program will mean for Imperial County and the degradation it will bring to our economy.

So there are great concerns, and I share many of those that Mr. Horne points out.

But along with that, we have a great concern about the social impacts and also the property tax impacts and so forth. And we're also very concerned about where, as he said about the pipeline, at the end of the pipeline there has to be some jobs awaiting. We've talked about participating as partners with San Diego County and other areas, on assisting us in developing other types of job opportunities for people in our county, to diversify economy as it were. And that would be one of the solutions that would need to be looked at certainly so that there are jobs waiting at the end of that pipeline.

And so to that end we stand ready to become involved in the process and help move this along and to solutions.

Mr. CALVERT. Thank you.

Well, Mr. Wyatt, you are right, we're running out of time. I'd like to get something that we can move toward very quickly if possible. And I'll let Senator Costa address.

Mr. COSTA. Thank you, Mr. Chairman.

I'd like to kind of have a discussion both with Mr. Horne and Mr. Wyatt. Because I think in following comments that you made and that Congressman Calvert made, I have a great deal of sympathy for the problems that you're facing in Imperial County with regards to the water availability. And I also, I think, draw on some similarities. As I think both of you know—and I've worked, Mr. Horne, with you over the years—I represent an area that has a number of similarities to the Imperial Valley. It's—out of the top five—out of the top ten agricultural counties in the nation, four of them are

in my district. And on the west side of the Central Valley we have had a host of serious issues surrounding water availability and the contractual obligations between our irrigation district, like yours, and the Federal Government.

Fifteen years ago it was proposed in Westlands Irrigation District that we consider the concept of fallowing. I might tell you that I don't think I have to tell you that it was not embraced with great enthusiasm 15 years ago. As you are dealing with the political ramifications of the current proposal that you have discussed here this morning, I am sympathetic. But let me give you a bit of a different take. And Assemblymember Kelly and I are among the few remaining persons in the California legislature that are still actively engaged in farming.

As Chairman of the Senate Agriculture and Water Committee, I view myself as an advocate for California agriculture. But I don't think you have to be a rocket scientist to figure out that agriculture is changing dramatically, not only in California but across the country, as we attempt to compete in world markets. That's just a fact of life.

I'd like to describe it differently, but one of the glaring errors that we have today is that we aren't really basing a farm policy on a national level on the international implications that we're dealing with as it relates to our foreign policy.

The amount of agriculture that we have in production today is going to change in the next ten and 20 years. That also has to be factored in on how we solve our water problems. The fact is that too many of the crops we grow in California today have been losing money. Simply stated, they don't meet the cost of production when you, at the end of the year, sell those crops on the marketplace. If it wasn't for the Federal support programs in many instances, many of our farmers would not be able to stay in business. So I think we need to factor that in when we look upon the impacts of how we provide water and its availability.

It just seems to me that I would have never been able to advocate 15 years ago that we retire 150,000 acres of land on the west side of the Central Valley. And yet today the farmers in my area are actively seeking support on the state and the Federal level to in fact do just that. Fifteen years ago that would have never happened. I mean, they were farmers, they were good farmers, they want to continue to farm. But they have seen a whole series of adversities come their way. And now we're looking at losing the complete equity that they have in their land. And therefore, they are faced with attempting to cut their losses.

Now, your unemployment in Imperial County is double-digit, correct?

Mr. HORNE. Correct.

Mr. COSTA. What's the current level?

Mr. HORNE. I believe the current level is somewhere around 17, 18 percent.

Mr. COSTA. I'm very sympathetic. Fresno County is 15 percent. Kings County is at 14 percent. I know from whence you speak. My other two counties are in double digit as well. It just seems to me that we have to look further down the road and try to get the side—behind the inflammatory rhetoric that is going both ways.

You know, I—you know, there's a pox on all of our houses. But the fact is we're all in this together at the end of the day. California is not going to secede. Our Federal partners are critical, and we've got to figure a way to work through this.

A mitigation program I think can be put together that addresses the issues at hand. A temporary conservation program that has a 5-year time set or other time period. To see how that works I think is something we need to look at. It just seems to me that we need to allow cooler heads to prevail. We need to dampen the inflammatory rhetoric that's been out there in recent weeks, and we need to figure out how we're going to provide some solutions that are satisfactory to Imperial Valley, to the Imperial Valley Irrigation District; solutions that you are offering that you are partners in, not solutions that are being handed to you, if we're going to make this work. And I—and I know my colleagues at the dais here are willing to be your partners in bringing the various elements together to achieve that end.

Imperial Valley Irrigation District, Imperial County is an important part of the State of California. I know. I have visited your communities over the years. I see all the good work, the hard work that is being done for the people who live there. But we've got to figure out a way in how we sign this Quantification Agreement.

When Congressman Calvert asked you, Mr. Horne, what was the solution, and you kind of reversed the question, I think we kind of know what the solutions are. The fact is, you don't like some of the aspects of the solutions. I understand that. We've got to figure out how we work through those aspects that you find that are troubling, and we've got to do that sooner rather than later. And whether that means bringing all the parties together in a room for a day or two and hammering this out, we've just—it's absolutely critical that we do so.

Agriculture is not going to be the same in Imperial County 10 years from now, any more than it's going to be the same as it is in Fresno County or Tulare or Kings County. And we've got to figure out how we address that in the future.

But I'm absolutely convinced we can mitigate the short-term impacts of the proposed—or the different proposed conservation plans in a cooperative way.

Would either of you like to comment on that?

Mr. HORNE. Want me to go?

Mr. COSTA. Yes, Mr. Horne.

Mr. HORNE. We have—and I think certainly, you know, the idea of considering all the alternatives is one that we have agreed to. The RSDIR/EIS that was commissioned 4 years ago looks at fallowing as an alternative to conserving water. The socioeconomic impacts were also studied. And the socioeconomic impacts of the—at least that are indicated and reflected in the conclusions in that report, would certainly indicate that type of program will have some rather large socioeconomic impacts. It just does nothing, of course, to go further and try to identify how you would go about mitigating that.

I'm very curious, Senator Costa, as to the basis of your confidence on how this type of a program could be dealt with or ad-

dressed, because there have been no models. There have been no previous experiences in a long-term fallowing agreement.

Again, I question seriously the idea of a short-term solution for a long-term problem. California—this agreement we have with the San Diego County Water Authority is a 75-year agreement. And I think you change the dynamic tremendously if you go to a short-term deal. I've had discussion with Director Hannigan about mitigation that has been put in place for the drought land fallowing that was done in Northern California. That's a 1-year agreement. There have been studies that were done in Palo Verde, a 2-year agreement. If you now talk about perhaps a 5-year quick-fix type of deal, again, that doesn't solve the problem. In surplus criteria alone, a 15-year agreement—I think the other states would reject the idea that some 5-year band-aid fallowing program in the Imperial Valley would satisfy them as to the commitment of California to reduce its draw on the Colorado River over a long period of time.

Mr. COSTA. Mr. Horne, I think there's a number of options. I suggested 5 years as one option. You and I know that if you were to take 30,000 acres of land of which the Imperial Valley Irrigation District service area is much larger than—what's the current service area of land in production?

Mr. HORNE. In production we have about 425,000 acres.

Mr. COSTA. 425,000 acres. And your land is about the size of Westlands. It's not all the same. It's not all of the same level production; is that correct?

Mr. HORNE. Correct.

Mr. COSTA. Correct. 30,000 acres—just pick a number—with six acre-feet of the water with a net yield of four, you extrapolate that, you create a voluntary program. No mandates, no forcing anyone to do anything they don't want to do. They look at the cost of production here on some of these crops where folks are continuing to lose money year after year after year. My guess is you'd have a number of folks who would want to participate in it.

Mr. HORNE. No question about it.

Mr. COSTA. OK. You add the numbers at four acre-feet net yield, you're up to 120,000 acre-feet of water.

Mr. HORNE. Right.

Mr. COSTA. So it seems to me that there's ways in which we can fashion this. There are a number of options out there. I'm not trying to pick them for you. I'm trying to suggest let's sit down—

Mr. HORNE. We have discussed them amongst ourselves and with others, including people in Sacramento and Washington.

Mr. COSTA. So—

Mr. HORNE. And the obligation that we have of cooperation with California and the Federal Government in terms of helping California and Colorado River Basin work some of these issues out is certainly not one that we take lightly.

Mr. COSTA. I'm not suggesting that you do.

Mr. HORNE. Our primary obligation is to protect the interests of our community.

Mr. COSTA. Absolutely. That's what you were elected to do.

Mr. HORNE. And the fallowing program that rewards landowners in the Imperial Valley, we're taking their land out of production,

and ignores the other effects, the ripple effects in our economy, is not something that I believe is an option.

And even if you could figure out and find out what those exposures in our agreement, for the amount of water that you're talking about, would be roughly a thousand jobs and an impact of our economy of somewhere in the neighborhood of fifty million dollars annually, according to the agreement.

Now, we don't have other studies on that. We have economists that have looked at those numbers that CH2 and Hill did, the contractor, had agreed that they are sound. Others have looked at it and questioned the validity of those numbers. We haven't seen any sound scientific data that would indicate that those numbers are way off.

Mr. COSTA. When Westlands was cut back on the reallocation of the water we did a study in Fresno County about the potential plant closure. And you're describing plant closure. And I can share that study with you in terms of the impacts of the loss of jobs. The fact is that we've lost over 150,000 acre-feet of water. And we're going to lose probably a hundred thousand plus acres of land in the next five to 10 years. And we don't have any guarantee yet of a mitigation program.

I think the willingness of all of us to consider a mitigation program for the sake of making this quantification settlement work, given other examples around the state, is a significant step.

Mr. HORNE. Well, I—you know, I spoke with you before about this issue. I think drawing parallels between the Westlands situation and ours is somewhat risky—

Mr. COSTA. There are similarities and there's differences.

Mr. HORNE. Yes. Including the fact that we have the water. We have a permanent service contract with the Federal Government and pre-1914 probative water rights, and pre-lower canyon project effective rights that do not put those water rights, we believe, at risk of being cut back by some unilateral action of the Federal Government. And to fallow land in the Westlands District is to make water available to other users within that district.

We're being asked now to make water available outside of our district, and at the expense of our agricultural economy. And I would be happy—and I'm sure that there are studies being done—that would look at other areas. Like I said, we've looked at the Palo Verde—

Mr. COSTA. Isn't your yield firm at 2.9 million acre-feet as a result of this agreement?

Mr. HORNE. Well, we would have—under the QSA we'd have 3.1 million acre-feet of water rights out of the third priority for California.

Mr. COSTA. That's a benefit, is it not?

Mr. HORNE. Excuse me?

Mr. COSTA. That's a benefit, is it not?

Mr. HORNE. Oh, absolutely. Absolutely.

Mr. COSTA. And that gets overlooked here a lot.

Mr. HORNE. We do certainly not overlook it. That's why we are absolutely committed to getting this thing done, providing it can be done in a way that does not unreasonably impact our future and our economy. We have that 3.1 million acre-feet, and even more

today, if we want. And we believe that quantifying that is a benefit to all the water users in California including us. Because it assures us—but don't forget, as I pointed out, that we are of that 3.1 committed to transfer 500,000 acre-feet of that over a long period of time to other water users in the area.

Mr. COSTA. Mr. Chairman, I don't want to belabor this issue and I've exceeded my time, but I really sincerely want to encourage the Imperial Valley Irrigation District to work with us to figure out how we can reach an agreement on a conservation program. And we've got to lower the rhetoric. No one is trying to suggest, you know, how you want to drive your train. But we're all in this together, and we've got to try to figure out solutions that are applicable to all the parties to allow us to get there. And I think we start first by lowering the rhetoric and figuring out how we can come to solutions that are achievable and that are acceptable by all parties.

Mr. CALVERT. Thank you, gentlemen. Ms. Bono.

Mrs. BONO. Thank you, Mr. Chairman.

I guess I'll begin with Mr. Horne. One thing we haven't discussed here so far is the \$50 million annually once the transfers are in full effect, where that \$50 million will go. And I was wondering if you could just sort of share your vision on that kind of money and what your plans on—not your personal plans, but—

Mr. HORNE. I have some.

Mrs. BONO. Because I don't believe that we're discussing that enough and I'd like to have a better understanding of that, if I could.

Mr. HORNE. Well, I think, Congresswoman, that it would depend entirely on the type of program to be implemented. Under the original concepts of the money that—the bulk of that money, probably at least 80 percent of it, would be paid out to improve and implement onfarm and systems including water use technology in the Imperial Valley. It's going to be a very expensive program. It's going to create jobs in our county by taking that money and infusing it into our farm economy and into capital improvements. Some of that money would be used for offsetting and mitigating environmental impacts, not only the Salton Sea but also in our drainage system which needs to have reduced water quantities. Some of the money would be used to reimburse us for the loss of water savings, the Irrigation District toward administrative costs, lost water savings and lost power revenues. We are now generating water—generating power with that water that comes down through the All American Canal, so that would, we believe, perhaps be sufficient to address that.

Converting, on the other hand, the conservation technology to the fallowing based approach raises a number of issues. First of all you would have to provide an incentive in that agreement—and any agreement that we would have with our local landowners, as Senator Costa indicated, would have to be done to get to participate in the program. In the Palo Verde case, for instance, there is a set dollar amount paid to the landowners. I think it's on an average of \$180, \$175, between \$150 and \$200, depending on the amount of water per acre foot. So if it was toward the upper end of that, then you'd have maybe forty million dollars or something like that that would have to be paid out. And the balance of that would have

to be used to do the same—some of the same mitigations that would be done for the drain system. The following program certainly addressed the mitigation problems of the sea but we still have in-valley mitigation issues to deal with that have to be paid out of that revenue stream. The same administrative and perhaps more administrative costs, the same power and water sales losses of revenue that would be compensated for.

The big wild card in that equation is this issue of third party impact. If you compensate for his loss of income, how do you then turn around and compensate the farm workers and the ag supplier of fertilizer and seed and farm equipment and fuel that is now being used to produce crops on that ground. And Mr. Levy's concept of phantom farming, with all respect to that, I think is one of the most ludicrous—sorry about the rhetoric, Mr. Costa—one of the most interesting concepts—

Mr. COSTA. There you go.

Mr. HORNE. —that I've ever seen. We have put this in the pipeline to study. It may be a very short pipe. However, it would depend—that revenue stream would have to be tailored to the type of program.

In a following program we don't believe that there's enough revenue under the current revenue stream generated by the agreements either with San Diego or Coachella to fully offset—to pay the incentive that would be necessary and to offset the third party interests. We don't know what that number is, but we are working on that and we are studying. And we believe that some mitigation plan would have to be developed if that program were ever to be embarked upon. And if it were ever to be proven to be acceptable to the people of the Imperial Valley as a way to go, we would have to fully assure, as Mr. Wyatt said, that all those issues including additional—and Congresswoman, I know one of your big concerns is the air quality issue of Salton Sea—we might expose tens of thousands of acres of shoreline to the wind. If we follow 75,000 acres of farm land in the Imperial Valley, that will be exposed to wind. And we have to look at the air quality implications of that type of event. And so we have some real—a lot of work to do in a very short period of time that we need to seriously consider.

Mrs. BONO. Do the farmers of Imperial Valley, in your opinion, worry about air quality coming off of the Salton Sea?

Mr. HORNE. I think one of the big problems—one of the big concerns that I've heard articulated by the farmers is this issue of long-term, open-ended environmental cost risks that are not addressed and provided—and assurances provided for in the set of agreements that we are contemplating, that is one of the big—other than, you know, are they going to get enough money out of the deal to make it worth their while—the second biggest is this issue of environmental mitigation risks.

Mrs. BONO. So when you said in your testimony, before the terrorist comment, I think, about protecting ourselves, do you believe that people of the Coachella Valley have a right to protect themselves for air quality issues?

Mr. HORNE. Absolutely. Absolutely, Congresswoman. I sit on that Salton Sea Authority Board. I supported the resolution that encouraged water conservation to be done in a manner that would not

significantly lower the Salton Sea elevation. But particularly for that—one reason, for that very reason, other than the—

Mrs. BONO. So you were a terrorist at that point, right?

Mr. HORNE. Pardon?

Mrs. BONO. You crossed the line into the terrorist side of things at that point?

Mr. HORNE. No, no, that wasn't terroristic, that was consensual. There's a difference.

Mrs. BONO. Well, while you were on the Salton Sea Authority—and you currently sit on it, have you asked for—

Mr. HORNE. Currently my board is considering removing me.

Mrs. BONO. Might be the best thing that ever happened to you. Have you asked for adequate air testing to be done?

Mr. HORNE. In terms of the sea?

Mrs. BONO. Uh-huh, and shoreline exposure?

Mr. HORNE. The report—some of the comments received from the draft report that was circulated, from my understanding—and I'm not handling that on a day-to-day basis—were directed at the inadequacies of the report in addressing potential impacts for air quality. And I know ongoing study—there was a symposium held in regard to air quality impact. I don't think there's enough information in terms of what the magnitude of those impacts would be at this point. And I think there's where our consultant was hiding behind. Nobody knows what'll happen. I think it has become concluded that there is a potential risk there. And I don't think anyone would—would be well-served or smart to ignore those impacts because one of the risks is we don't know what all the impacts might be. And that's certainly one that would tend to develop down the road in terms of implementation of these agreements. So if we got down the road 20, 30 years, and there's a receded shoreline, when all a sudden the air quality issue, who is going to be blamed and who's going to pay for that? And that's the concern that our landowners and farmers and our electric people have down there, and our citizens.

Mrs. BONO. Thank you. I'm going to—Supervisor Wyatt, if I might move on to you, can you explain to me what your thoughts are on the negative ramifications of a deteriorating sea.

Mr. WYATT. Well, as we've discussed before, I have some great concerns about that. I believe the sea to be one of the greatest resources that we have in Southern California, period. It has been better utilized in the past, and we believe it can be realized in the future. But certainly we have a great concern about the air quality impacts. We have just avoided moving into the serious nonattainment, because we achieved a but-for designation from the EPA, which consequently has gone back to court and is being taken in task all over again.

So we are, like I believe you are in Coachella Valley, we're in moderate nonattainment. So we have a great concern on the board, as we've had many discussions about the air quality issues. So that is certainly one of our great concerns.

The other thing is that the sea represents a great economic opportunity for us. If the sea is not restored and it is not maintained, therefore, we will never realize that as you will never realize it in your area and, therefore, we will never see the economic benefit

from what the sea could be. And I believe that it's a multibillion dollar industry awaiting if we can restore and maintain the sea. So I believe it's one of the future answers and one of the future needs for the Southern California. It's not just for Imperial County or Coachella Valley, but all of Southern California benefits from a restored vital sea for the recreation opportunities alone.

Mrs. BONO. Are you in current discussions with the supervisors of Riverside County about these questions and problems? When was the last time you've talked to them about it?

Mr. WYATT. Yes, I have been in contact with one of the supervisors who sits on the Salton Sea Authority, Mr. Roy Wilson. And we've had some discussions about some potential opportunities to resolve some of the difficulties of the sea, and we continue to discuss those. As you know, I sit on the Salton Sea Authority also, with Mr. Horne and others. But we have been in discussion and will continue to be so in the future as we are looking forward to some opportunities to help resolve some of the difficulties.

Mrs. BONO. All right. Thank you.

I have one last question, Mr. Chairman, for Mr. Turner.

If you can briefly outline for me what—or from Ms. Stapleton, whoever, I'm happy to have anybody answer it—is if you've made any offers to the Salton Sea Authority or to Coachella Valley for mitigation efforts.

Mr. TURNER. I'm sorry, the question was—

Mrs. BONO. If you all have—we in Washington have talked about ways of coming up with creative solutions that are outside of the box for addressing who's going to pay for ramifications, negative consequences from the transfer. Have you worked with Salton Sea Authority or made offers to them or to Coachella Valley for mitigation efforts?

Mr. TURNER. Well, we haven't made offers. Our deal with IID in our opinion had enough dollars in it to take care of the mitigation efforts and so forth that were necessary at the time. And we had certainly thought that the Federal Government—they were on a track ahead of us on this deal, so that we thought that the Federal Government was going to come up with a solution. And I believe we're still waiting for a report to come out.

So our position has been, we're—we like the deal basically, and IID liked the deal when we made it. So we haven't really addressed that.

We're open to talk about those issues. My board doesn't give me a blank check and come up here and make these promises, but I'm certainly amenable to look at it. And my board's amenable to look at all the alternatives.

Mrs. BONO. Thank you. I just will close with, the way I'm viewing this is that we all agree the QSA has to be enacted and signed, and that's not an issue. And we all agree that somebody is going to pay a price here and consequences. But it's a matter of almost triage now, and addressing most of these consequences first. And that's where I am. And I just want to compliment my two colleagues up here for their comments earlier, I think they've been right on point.

Thank you, Mr. Chairman. I yield back.

Mr. CALVERT. We're going to take a 5-minute break and come right back. So if everyone can stay in the general vicinity, we'll be right back in 5 minutes.

[Recess.]

Mr. CALVERT. OK. Assemblyman Kelly, you're recognized.

Mr. KELLY. Thank you, Mr. Chairman.

If I may, I think a little bit of history—and Andy, you might as well stay up right there—is in order here. A number of years ago, Mr. Wyatt, the county board of supervisors approached me and said conservation is the theme of trying to resolve the problem here. They approached me to introduce legislation on fallowing in the Imperial Valley. And first thing I did was go to the University of California at Davis to ask for a definition of fallowing on the approach to try and come up with a formula for what you as the board of supervisors would adopt. The University of California could not come up with a definition of fallowing. And that's why the legislation never materialized, because we couldn't even define the issue. Now, this shows you how complicated it is. It shows the rest of the audience how complicated the issue is.

This is not to say that fallowing doesn't take place. The farmers down there in the Imperial Valley as well as the Central Valley or anywhere that you're farming in a multicultural nature, not in a monoculture like I do, they fallow on a voluntary basis. They're making the decisions on the economies of the agriculture, of what the crops are that they think will be profitable or not profitable. So there's land being fallowed at the present time in Imperial Valley. I don't know exactly how much. Maybe Andy or someone can tell us how much is actually being fallowed on a voluntary basis there now. I just don't know what it is.

But to go back and talk about the conservation, so forth, that has occurred in the Imperial Valley, and I think one of the early programs was the arrangements between the Metropolitan Water District and the Imperial Irrigation District where the Metropolitan Water District agreed to line certain canals with cement down there to stop the seepage of water, and that water would be conserved, and you would get the water in exchange for paying for the lining of the canals. Maybe one of the issues here is to—and I don't know where you are in the status of this—but to hasten the completion of that project so that the water conservation could be there. And I don't know how much more there is to be done. But there—there is that particular program that is in place down there, and that could be completed.

The other thing that we have done in the legislature—and Mr. Hannigan—I don't know where he disappeared to, if he's still in the audience or not—but the legislature a couple years ago came up with \$200 million for the lining of the All American Canal. And the All American Canal was originally constructed by the Federal Government but turned over the responsibilities for management, maintenance and so forth of the Imperial—of the All American Canal to the Imperial Irrigation District. And over the years the Imperial Irrigation District paid off the obligations for the construction of that. And the All American Canal is under the jurisdiction of the Imperial Irrigation District, but yet you have not received title to the project as of that date. So it's still under the jurisdiction

of the Federal Government as far as title is concerned, but you still have the responsibility of maintaining the canal.

Now, the State of California came up with the \$200 million to line the canal for the water conservation. I'm not sure exactly what the amount of water was, but we're looking in excess of a hundred thousand acre-feet. I think it's around 106,000 acre-feet of water. And then there's the lining of the Coachella branch of the All American Canal. And I don't know what the status of that is. But you're pretty well along with the lining of that canal. I don't know if you're finished yet or not, but there's that.

So here we have these projects that are in existence that have—that agreements have been made, projects have been started. And there are conservation programs going on with these projects in the Imperial Irrigation District. It just seems to me that there should be some expansion or something done to expedite the completion of these projects, if they aren't complete, or hasten the beginning, especially in the All American Canal project, hasten that project if we can possibly do it. And then we will be in a positive mode to get what we have to get done.

The question comes up, with these projects being funded to a certain extent in the pipeline, so to speak, what has the Imperial Irrigation District done for onfarm conservation. Do you have any programs that are of a nature that you could adopt that would be of an onfarm conservation by the individual growers down there?

Now, this brings into play the following question. And that's all right, Andy, get up there so you can answer all this.

This brings into play the question of the following. And then I'm sure you're well aware that the Farm Bureau, Imperial Valley Farm Bureau, supported some degree of the following programs down there. So maybe you can answer, where are we in the project of the conservation programs. What are you doing with your onfarm conservation at the present time? And like I say, the Farm Bureau supports that sort of thing. And what's the completion date of the lining of the ditches down there in Imperial Valley with Metropolitan?

Mr. HORNE. 2006 is our time line.

Mr. KELLY. 2006.

Mr. HORNE. First of all, Mr. Kelly, the conservation of water in the Imperial Valley and the IID is something we take very seriously. It actually started long before we entered into the agreement with Metropolitan Water District in 1988 to embark on that program. Our farmers in our district have paid for a number of lining—canal lining programs and conservation measures which would amount to hundreds of millions of dollars expended to be able to allow us to use the water that we have more efficiently.

The formal program of doing conservation and transfer programs, our idea was initiated with Met in 1988, and that agreement is completed. It's yielding today between 106-, 110,000 acre-feet. So those—

Mr. KELLY. That's in the 500,000, you say—

Mr. COHEN. That's included in the 500,000 I mentioned earlier. Now, that program was not just limited to lining canals. It also included some onfarm conservation measures, including allowing more flexible irrigation delivery schedules and some pump-back ir-

rigation systems similar to what were being contemplated taking place in the San Diego program.

As you know, after the agreement with IID in San Diego was signed there was an agreement to—as part of the compensation, asked for in terms of the wheeling of that water through their system to San Diego, some funding made available to line a portion of the All American Canal and the Coachella branch of the All American Canal, total yield of which, my understanding, is about 93,000 acre-feet, of which 16,000 acre-feet will go to the San Luis Rey settlement. So there is some money available.

It's my understanding—and Senator Costa might recall—that those lining projects will not take place unless the—since it was done in compensation for the wheeling of that water, unless the transfer with San Diego and IID goes through. So my understanding is it's contingent. The completion of this project is contingent. Not to say it wouldn't be a good idea to go ahead and do it, that the water would be made available to California or to somebody. The state could pay for it and turn around and sell it, and perhaps recover some of the costs. Because the money is there. My understanding through talking to—we've entered into—Coachella has finalized their funding agreement, we've signed ours, and I think they're ready to go, and I think we're darn near ready to go to get started on this program. So I think we'll be completed within three or 4 years.

Mr. KELLY. Well, if there's any way to expedite the completion of those projects, I think you ought to take a look at it, because that's going to help, you know—

Mr. HORNE. That will be up to the state, Senator Kelly. They control the purse strings.

Mr. KELLY. Well, I know we came up with 200 million. Now as I understand it, because of the lack of action between the time we came up with the money and today, it has roughly gone up fifty million dollars. So you're really looking at 250 million for the project.

Mr. HORNE. If the decision were made to go forward with both of those projects, I think that either IID or Coachella would not stand in the way. That's my—IID's position is that—and we haven't discussed it in depth—that those projects might very well make sense on a stand-alone basis.

The other question you asked about fallowing as embraced by the Farm Bureau, the Farm Bureau came up with a proposal, a Committee of the Farm Bureau, to do some—one of the other concerns—and Congresswoman Bono asked about concerns that the farm community had, and it goes back to this issue of money, was the up-front cost of implementing these conservation measures. And they are substantial. You figure there might be 200- to 300,000 acres involved, and the average cost of a thousand dollars maybe an acre to do the conservation, you're looking at several—maybe over a hundred to \$200 million.

And there's no provision in the San Diego agreement, as there was in the Metropolitan agreement, for the water agency to front-load those costs. They look at fallowing as a bridge to financing the onfarm and system improvements that would be done under the program. It was not as a water conservation and certainly not a

long-term conservation measure. It's strictly—my understanding is it's strictly as a means to raise the capital necessary to allow the conservation measure to be put in place. And I believe that if you're talking to the members—many members of the Farm Bureau, they share many of the same concerns in regard to the fallowing program as we do.

I don't know that I personally share Senator Costa's pessimistic view of the agriculture in this country. We have farmers down there now looking at growing new crops like sugar cane to help California meet its ethanol fuel requirements. So I think there's a bright future for many new crops. We haven't thought about the cane as being something that could be grown, as long as we have the water to do that.

Mr. KELLY. Do you have any idea how many acres are voluntarily fallowed down there?

Mr. HORNE. I think it ranges between 25- and 50,000 acres that are—and we have even more land than that. We have about a million acres in our—

Mr. KELLY. Service areas—

Mr. HORNE. —that are titled to receive water, or could receive water. Many of those acres do not have a delivery system. So of those that have been fallowed, I think recent crop history—it's usually—I think this last year is around 25,000 acres. So fallowing certainly has—as you stated accurately, most of the fallowing is done for economic reasons.

The fact of the matter is, if any additional water had to be made available to a transfer program, then that many more acres, up to—I think Mr. Levy's program suggested 82,000 additional acres would have to be fallowed to provide the water that was necessary to meet the obligations of the transfer. And that doesn't—I don't believe the 82,000 acres included the acres-feet of water necessary to maintain the elevation of the sea.

Mr. KELLY. But your service area encompasses something like 600,000 acres.

Mr. HORNE. I think in the Imperial, it's somewhere in that neighborhood. I mean, you have the east and west basins.

Mr. KELLY. Yeah. But—well, you discussed the third party impacts of all this. Let me—you know, if they fallow so much land and this sort of thing, let me just state for the record that in the Imperial Valley there are a lot of things going on right now. I'm sure you're very conscious of it. And I've been heavily involved in that. In Brawley, for example, a meat packing facility that is going to create tremendous jobs because of the manufacturing enhancement settlement that we placed on that area, that's going to bring a lot of employment in that area. We're also discussing moving or putting an additional campus for the University of San Diego State up in Brawley. We just were there the other day. And if you move that campus, or add to the campus that existed at Calexico up there, we're going to have tremendous opportunities. And along with all of this goes the allied businesses that come with the facilities that are there.

And so I think that the job opportunities as the general economic picture changes down there, as it is changing very rapidly, these new facilities that are being built, these are the opportunities that

you're going to have as you transition maybe from some of the agricultural areas into these other areas. This is where the people are going to find the jobs. Because the jobs coming in for the meat facility, for example, are very high paying jobs, very well-paid jobs, and the numbers are gaining daily as you look at the potential slaughter of six thousand head of steer a day down there. So that takes a lot of people to do all of that.

Mr. HORNE. Well, I agree with you, Assemblyman Kelly. The only thing I would point out is another area that you forgot to mention that I'm sure you are very well aware of because we've talked about it is the idea of attracting the dairies into the Imperial Valley. That would certainly enhance our economy. Both the beef industry and the dairy industry—and I'd like to make this point, are supported heavily by the growing of what Mr. Levy terms low-value crops. There's a low-value crops being produced that supports a very high dollar industry. Meat is our biggest industry, and the dairy industry in California is a huge producer of red meat. But the cows can't eat money. They have to have alfalfa. And the only way to grow alfalfa is with water. And we are short-changing ourselves if we think that we can support beef and dairy industries in Imperial County without an adequate supply of alfalfa. That's one of the reasons they're looking at moving down there is to be able to take advantage of the production of the alfalfa and other forage crops. So if you take away the forage crop industry, you gut the dairy and beef industry.

Mr. KELLY. I understand that. And you're well aware that there's a high percentage of beef coming into that plant that are imported from other regions.

Mr. HORNE. I'm not aware of that at all. I understand that all the beef coming in there is coming in locally and from Arizona.

Mr. KELLY. And Arizona.

Mr. HORNE. Right.

Mr. KELLY. But there's a high percentage coming in from other areas. Anyway, so we're in a transition period here. We're also in a transition period in other regions around the State of California. There's no question but what the agrieconomy is in trouble, certain areas, certain commodities are having a very difficult time at this point in time. So we have to all look at ways that we can modify, ways that we can adjust.

As you look at the conservation programs that are already in place out there, if there's any way that we can expedite that, if there's anything that we can do to have this play into the Quantification Settlement Agreement, if there's anything that we can do as far as those of us in the state level, that \$200 million that we have available up there, if we could kind of kick that loose, maybe add fifty million to it, why that would really help.

Mr. WYATT. Just make sure it doesn't disappear in the next few days at Committee hearings.

Mr. CALVERT. All right. Thank you, gentlemen.

Before I turn it over to Mr. Hunter, I just want to point out to both Mr. Horne and Mr. Wyatt that, as you know, most of the dairies are in my district, and quite frankly, they're going to move. And I've been working with them to encourage that movement here to Imperial County. And I think you've been getting some positive

news recently that one major dairy has made a determination to move there. And I think it's under construction and I think you will have some news on several others hopefully in the near future. And obviously those pay a lot more in wages and employ a lot of people.

Mr. HORNE. I couldn't agree with you more, Congressman Calvert. I just want to make one observation. That is that some of the dairy people that have come down there have asked questions of us, are you going to have enough water for us. Because they're concerned. They hear in the news media that we're in the process of drying ourselves up. And we try to assure them that we've got plenty of water and will continue to have plenty of water—

Mr. CALVERT. I know you're going to do a lot better for them in Imperial County than we can do for them up in the Santa Ana River basin.

With that, Mr. Hunter.

STATEMENT OF THE HON. DUNCAN HUNTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. HUNTER. Thank you, Mr. Chairman.

And incidentally, we've had one town meeting with the dairy folks in the valley, and I know you were at that thing. And we hope to have another one here in the next several months. So we'll keep working on that issue.

It's great to be with you. And to my colleague Mary, Mary, it's neat to be in your district. You've really worked this issue hard, we really appreciate you.

And Dave Kelly, one of the smartest guys in water the state's ever had, working those issues. Great to see you. And I'm sorry you're leaving us.

And Senator, it was good to hear your words.

And I think what we ought to do is kind of go back and look at the big picture here. The big picture is that—and I may be asking Mr. Horne or other members to respond when we get to a few questions here. But the big picture is that this deal was put together to—basically on a pretty good model. And the model was that folks who get 140 bucks a ton for alfalfa can't afford to do all the water conservation measures that they could afford to do if they had more money. And for folks in urban areas who buy spring water for a buck-fifty a liter, it's worth the money to be able to send money to the ag areas and free up some of that water by paying for those conservation measures. And both interests are fairly well attended to.

And I think another point to make here is that when this deal was put together, the folks in the valley, No. 1, are the IID. The IID is not 500 farmers, it's all the voting populace in Imperial County. So it's 140,000 people. All the voters and their families and all the folks who depend on them for their livelihood.

And Mary, driving down here through your great district, I came over the top over from San Diego, came over the Santa Rosa Mountains and I saw all the new construction and all the new businesses. And I just thought about that as I was coming down, how many folks would be stacked in here if there was a hearing on

whether or not this part of the Valley was going to lose some of its water. Because of course everybody who has invested their life savings in a business or has a family here would, of course, be very upset and would be—would be here and make themselves heard.

But we did put this deal together over the years. And at every point folks at Imperial Valley who had their life investment in that valley—that includes folks with dry cleaning establishments, and people that work and carry a lunch bucket for a living, and folks in all the industries that attend ag, constantly ask their representatives, so their democratically elected representatives, are we going to have to fallow. And the answer was always no. We'd been assured that we weren't going to have to do that. To the point that when the contract was made, there's a provision in the contract—not for the benefit of San Diego County, because I don't think San Diego cares how it gets water—but for the benefit and assurance of the folks who live in the valley that they wouldn't lose their water, that this water that was freed up would be a function of conservation, not a function of fallowing.

Now, the interesting thing here is that for years the valley has been told that you've got to spend more money on conservation projects, that there's too much water flowing into the Salton Sea through those drain ditches and through those tile systems. That when you flow water over a field of alfalfa you got a low end and a high end, and at the low end you collect the tail water and it goes in a ditch and ultimately goes into the sea.

And the argument from the city people has always been you're putting too much into the sea, you're going to have to conserve more water, and if you don't do it, we're going to sue you.

Well, now we've signed an agreement, and the agreement provided for water to be freed up through conservation measures, mostly onfarm conservation measures that Mr. Horne talked about.

And now the folks of Imperial Valley are being told, we told you before we would sue you if you didn't conserve, now we're telling you we will sue you if you do conserve. Because it's precisely those water conservation programs, the pump-back system in the fields, the extensive lining of canals and all the other things that reduces the amount of water that flows into the Salton Sea.

Now, a thing that's kind of interesting about this hearing is that there's some people missing. Because this deal was signed, and it was supposed to be executed. It's been signed by Imperial Valley. They're not refusing to put their signature on the paper. The reason the deal hasn't gone through is because the Fish and Wildlife, the Federal Fish and Wildlife, and Fish and Game engaged with the Valley and with the other water agencies this last year to come up with a mitigation—wildlife mitigation project that would mitigate for this transfer.

Now, I talked to Steve Thompson last night, the regional head of Fish and Game. I said, Steve, what went wrong, I said, because you understand that because we didn't get an agreement on the mitigation project for feeding the birds—as I understand, it pivoted on that the pelicans wouldn't eat birds and wouldn't eat fish out of ponds, they had to have the entire sea to eat fish out of. Because of that need collapsing, the water agreement has collapsed. And that means that the Colorado River Basin water agreement is in

jeopardy. And as a result of all of this, California could be massively fined in terms of water.

Now, Steve told me—and I hope maybe, Bennett, we could get him on the phone today—he said, you know, we were pretty close. Now I just asked John Carter, who’s the counsel for the district, I said, were you close? And what John related to me—in fact, John, you may want to answer this, so why don’t you—Mr. Chairman, could he hop up and answer the question?

[The prepared statement of Mr. Hunter follows:]

Statement of The Honorable Duncan Hunter, a Representative in Congress from the State of California

Mr. Chairman and Members of this Subcommittee, thank you for holding this hearing on California’s Colorado River use—one of the most important issues facing our state. You have chosen an appropriate title for this hearing—“Opportunities and Challenges.”

The opportunity came a couple of years back when Imperial Irrigation District (IID), within my district, saw a pressing need to help California reduce its excess use of water from the Colorado River, as well as a chance to sell conserved water to their rapidly growing urban neighbors. To carry out both of these goals, farmers in the Imperial Valley, one of the most productive agricultural regions in the country, agreed to irrigate the same amount of land with less water by implementing conservation measures like the installation of pump back systems and the lining of irrigation canals. These measures would be expensive, but could be paid for by the sale of water transferred to urban areas. For farmers in my district, the goal was simple—provide badly needed water to quickly growing urban areas and become more efficient with their own water use, while reducing California’s use of the River to its annual right to 4.4 million acre feet.

The challenge came when the win-win situation, agreed to by Valley farmers and urban water districts, began evolving into a nightmare. After the IID had done everything asked of them, and after they had laid out millions of dollars of their own money to fund requirements related to the water transfer from Imperial Valley to San Diego, they now find themselves trapped in a situation that virtually guarantees lawsuits against them, lasting decades, that will easily top \$1 billion.

When the farmers in my district were presented with the opportunity to transfer some of their water for urban use, never was there any discussion of fallowing land to come up with the water. The understanding was always that the sale of water to the cities would fund conservation measures that they would not have otherwise been able to afford. Now, given the complications surrounding the impact of the transfers on the Salton Sea, this community with the lowest per-capita income and the highest unemployment rate in California is being told that they must sacrifice a significant portion of their primary industry—by fallowing up to 75,000 acres of agriculture land to send hundreds of thousands of acre feet of drinking water into the Salton Sea to lessen the impact of the transfers. The catch—22 my constituents find themselves in is amazing. For years, they have been threatened with lawsuits from environmental groups for not conserving enough water—now they are threatened with legal action if they do conserve water. That is not only wrong, it’s cruel. These farmers need cover from litigation that will bankrupt a county whose economy is already struggling.

Those that advocate forced fallowing fail to recognize that this approach is not as simple as paying a few farmers not to farm. It’s the feed stores, the gas stations, the farm equipment vendors and the countless other businesses that rely on the Valley’s agricultural economy that will suffer as a result of this wrong-headed proposal.

Even more shocking is the possibility that the Imperial Valley could see much of their water seized by the Department of Interior and Governor Davis through a determination that the Valley is not making “beneficial use” of their water. In 1999, the Department of Interior drew up plans to seize IID’s water if they did not cave-in to pressure by the Clinton Administration. We now have a new administration, respectful of property rights, that I would hope will abandon the anti-agriculture stance of its predecessor.

Over the past year, my chief priority has been to highlight the pending disaster this situation has the potential to become. I have actively sought to develop a solution that does not destroy Imperial County’s rural economy and that does not make my constituents victims of billion dollar lawsuits. Toward that goal, I introduced

H.R. 2764, the Colorado River Quantification Settlement Facilitation Act. The legislation ensures that the water transfers are compliant with Federal environmental regulations, protects Imperial Valley residents from the impending cross fire of lawsuits and commits more than \$100 million to environmental restoration and water conservation measures in and around the Salton Sea. Recently, I met with Senator Feinstein and Assistant Interior Secretary Bennett Raley to seek their proactive leadership with this matter. Their assistance and that of my colleagues in the House, are necessary to avoid a catastrophe.

Again Mr. Chairman, thank you for holding this very important hearing. I value your leadership in helping to successfully complete California's Colorado River plan.

Mr. CALVERT. Yes. You may come to the podium. Please state your full name and occupation.

**STATEMENT OF JOHN CARTER, CHIEF COUNSEL,
IMPERIAL IRRIGATION DISTRICT**

Mr. CARTER. Yes. I'm John Carter, Chief Counsel for Imperial Irrigation District.

Mr. HUNTER. John, as I understand it, the reason the deal hasn't gone through and the reason we're all here to figure out how we can make it go through is because of permits. An agreement was not made on the environmental mitigation program that would result in the requisite permits being issued by state Fish and Game and by the Federal Fish and Wildlife; is that correct?

Mr. CARTER. That's correct.

Mr. HUNTER. What happened? What did you guys propose? What did Fish and Wildlife, slash, Fish and Game propose?

Mr. CARTER. The concept that was proposed is a 5,000-acre pond, slash, hatchery concept to deal with the impacts, the temporal impacts of the water conservation and transfer program. And we worked 9 months plus on that concept. We believed that both Fish and Game and Fish and Wildlife were going to issue permits based upon that concept. The costs escalated from approximately sixty million dollars, a hundred—maybe as high as \$130 million. We were concerned about the cost, but none of the districts—and I'll let them speak for themselves—said we just want to know what is it going to take to get the permits issued.

And the latest information we have, No. 1, in writing from the Department of Fish and Game, is that they cannot issue a permit, as Maureen Stapleton testified earlier, based upon the 5,000-acre pond hatchery concept.

And my understanding is that, speaking with Bennett Raley—he's here—is that it's likely that Fish and Wildlife will not be able to issue a permit based upon that concept.

Mr. HUNTER. Well, in talking to Mr. Thompson last night, what he relayed was, and he said—and maybe he was incorrectly briefed—but they came up with the 5,000-acre ponding. So that basically so you've got fish for the pelicans and the other birds to eat as the sea becomes more saline; is that right?

Mr. CARTER. Yes.

Mr. HUNTER. They came up with the 5,000-acre concept, and he said, "We got back a 500-acre response from the valley. And we just couldn't get together. And in the end it just didn't work."

But he said—I said, "Well, is there any—is there any conclusive evidence that you can't mitigate that you can't provide food for fish in ponds rather than a big open body."

And he said, "Absolutely that could be done." He said, "But for some reason we just didn't quite get together."

So is that your recollection of what happened here?

Mr. CARTER. No, it's not.

Mr. HUNTER. Well, is the valley willing to—and are the other irrigation districts willing to do a 5,000-acre lake program to mitigate and support these programs?

Mr. CARTER. As speaking for IID, that concept is acceptable to IID.

Mr. HUNTER. Well, Mr. Chairman, I think we've got work to do when we get finished here because we've got—we're grilling the guys that have already signed the agreement on the exclusive or the—on the terms that there would not be fallowing. The people of Imperial Valley who own the IID don't want to have fallowing but, nonetheless, they signed this agreement. And the permits upon which the agreement rest are dependent on having a program, a mitigation program, that will allow these birds to feed apart from the sea. And I would think that, at least what I've gotten from the Fish and Wildlife, is pretty fuzzy and pretty inconclusive in terms of whether or not you can have a mitigation program.

And so I think we ought to—when you have so much resting on this particular issue, we ought to have those folks here explaining to us why you can't mitigate.

I think you can. And at least the head of Fish and Wildlife, Steve Thompson, didn't say it was Mission Impossible, and we've discovered something unusual about pelicans that means they won't eat in an artificial area. He said, "We just didn't get together and we just couldn't quite make it work in the end." But he said—and I quote—he said, "We were very close."

Mr. CALVERT. If the gentleman would yield, we have an Under Secretary—Assistant Secretary, I should say, of Interior here with us, Bennett Raley. And he might also come up here to the podium, because I know he has to catch a plane pretty soon.

Mr. Raley, Secretary Raley, on the issue—I guess we're discussing the white pelican at this point. And just for the record, is the white pelican an endangered species?

Mr. RALEY. It is not.

Mr. CALVERT. It's a threatened species under both Federal and state—

Mr. RALEY. The white pelican, my understanding is, has not been listed under the Federal endangered species act. I am not aware of what its status is under state law.

Mr. HORNE. Brown pelicans.

Mr. RALEY. Have I confused my pelicans?

Mr. CALVERT. All right. Don't mess up our pelicans here.

Mr. HUNTER. Mr. Raley, you've heard this recounting of Mr. Carter's position of the district of why they didn't quite get together on this mitigation plan. What is your recollection of that failure? I mean, on that failure this entire water program rests. What happened from your point of view, and is it something that is retrievable?

Mr. RALEY. First of all I need to note that I do not have line authority over the Fish and Wildlife Service. However, as a member of the Secretary's team and with the authority that I do have in

responsibility, we stay in very close contact with Assistant Secretary Manson, Director of Fish and Wildlife Steve Williams, and Steve Thompson. My understanding is that they had been unable to reach a conclusion that requirements of Section 10 would have been met for the proposal put forward, but that they have not—No. 1, doesn't mean they won't continue working or won't continue talking; and No. 2, alternative subsets, different arrangements, they haven't reached any conclusion on.

So the short answer is no final, and they just haven't been able to get there yet.

Mr. HUNTER. Mr. Chairman, if we get to the point where the people in Imperial Valley don't want to accept fallowing—and I think at this point that's their voice through their democratically elected representatives. And we were close at one time, at least according to Mr. Thompson, to having an agreement that would mitigate the environmental effects of the sea with respect to this transfer, I think we ought to explore that posthaste.

And could you tell us another thing, Mr. Raley, while you're up here. I asked the Lawrence Livermore Institute to take a look at other ways to pull salt water out of the sea, because that's the only way you get salt out is to pull it out of the water and to replace it with fresher water. And we looked at a couple of aquifers. One aquifer that's under the All American Canal, the other is that they claim they've discovered a potential massive aquifer that's under the Salton Sea itself. Could you talk about that a little bit.

Mr. RALEY. The information that we have presently does not allow us to conclude that there is a water resource of the magnitude that they were discussing underneath the Salton Sea district. But because we want to make sure that we haven't missed anything, the Bureau of Reclamation is going to be meeting, I believe, this month with Lawrence Livermore so that the scientists can get together and compare notes and make sure that we haven't missed anything. Because if there's an answer out there, we all want to find it.

Mr. HUNTER. We're obviously all waiting on the report on the alternatives for saving the Salton Sea. And that was—Mary, when was that supposed to be out?

Mrs. BONO. End of the year last year.

Mr. HUNTER. End of the year last year. When is that going to be out? Because I think that that's obviously another key element of this whole program.

Mr. RALEY. Congressman, the department's position is that requirements of the law were in fact satisfied by the last administration but that, in deference to the wishes of the Salton Sea caucus that they take another look and do more work, that that is needed to be done and that's what we have done.

This morning had you asked me that question before I—and I consult with—given the importance of these issues, with people from the Bureau of Reclamation every single day. I'd last understood that they would be able to incorporate some of the new information from the Lawrence Livermore review and some of the new alternatives. And we were hoping for, as I think I indicated to you and the Congresswoman and the Chairman 2 days ago, hoping for an end of the summer time to have released yet another alternative

report. This morning I learned that, because of information on some of the vertical desalination technologies and some of the other stuff that's coming in, that it may be pushed yet beyond that, which is a concern to us. I know it's a concern to you. I'm just reporting what I heard this morning.

Mr. HUNTER. Tell us a little bit about the—you had looked at their recommendation that you pull saltwater out and you use those 12,000 acres of mud flats on the east side of the sea, and evaporate through an evaporation pump. What are your thoughts on that?

Mr. RALEY. Well, the preliminary conclusions are that, based on our existing knowledge base, that the solar ponds remain the most cost-effective. The costs are substantially greater than what some of the earlier estimates were. There is potentially water available to buy, from the aquifer underneath the Salton Sea, 10 years perhaps of time. But absent the discovery of the much larger aquifer that Lawrence Livermore people thought that the data—we all ought to be careful as to what they said, they protect—they had 3 weeks and they just did a literature review and they said based on what they saw there may be this potential for this much larger aquifer.

Mr. HUNTER. You're saying there may be an aquifer under the sea that could buy us 10 years of life for the sea?

Mr. RALEY. Perhaps.

Mr. HUNTER. And the only way you get salt out of the sea is by pulling salt water out of the sea at some point and replacing it with fresher water.

Mr. RALEY. Correct. And that's why—perhaps that's why we're going back, relooking at the good work done by Lawrence Livermore. That is a part of the additional work. The other reason for the delay that has been a source of significant concern and understandable frustration on your part is that when we looked at a preliminary draft early this spring, when I looked at it and started going through it with the team and asking questions about the assumptions that were behind some of the numbers, we concluded that some of the cost estimates did not have sufficient foundation, and we needed to go back and not give you—do the job right and not give you information that was based on unreasonable assumptions. That work has largely been done. Now we're assimilating Lawrence Livermore work.

Mr. HUNTER. Now, if you look at this—and you've got some knowledge of the history of our Salton Sea plan and our passport coming together an all of the work that Mary and Ken and Sonny and Jerry Lewis and George Brown and everyone did on this thing. Isn't it true that it was never contemplated that the people of Imperial Valley were going to pay for the rehab of the Salton Sea? That was never a plan, was it?

Mr. RALEY. This administration has said from the very beginning that we do not believe that the issue of the future of the Salton Sea should be placed on the backs of the California plan in general or the transfer in particular. In other words, the two must be de-linked for legal and equitable reasons.

Mr. HUNTER. OK. And I think this is an important model for us to look at. If you're going to have water transfers at other places

in the state, the worst thing we can do at this time is to tell the farming community, after they've already signed the contract that says we're not going to be responsible for the Salton Sea—and every entity that signed this thing has gotten an exposure limitation in that contract. I think it was IID that said if we go over a twenty million dollar environmental exposure, the contract's off. You can't expect these farming regions to start absorbing huge exposure for the environmental effects of them doing what the cities are asking them to do, which is to do water conservation projects, and use that conserved water, transfer that conserved water to the cities.

So don't you think that this was—if we end up with a model here in which the people of Imperial Valley take on massive environmental exposure for doing the exact water conservation programs that they've been asked to do, in fact been threatened with suit if they don't do, that you've set a very poor model for any farming community in the west that might be contemplating making a deal with an urban area and making water transfer? What do you think?

Mr. RALEY. We firmly believe in enabling market-based transfers. This is the biggest and the best that has been identified in the history of the west. And we want to find a way to make it work.

Mr. HUNTER. But what do you think about the exposure that we're talking about? If we don't limit the environmental exposure of the people that are sending the water, what kind of message is that going to send to other communities that might think of making a deal?

Mr. RALEY. I can give you an answer to that on two levels. First of all, I promised the Secretary, given my prior life as a lawyer, that I would not forget and pretend that I was her lawyer now, that was a role for the solicitor. So I stopped practicing law in this job. And the issues of liability are quite complex, and I understand them. I understand the difference, however, between liability and concerns about liability. And I suspect that's where we have differences of opinions and the—the legitimacy of that concern—there certainly is a basis for concern. I'm not sure the basis is as—in reality, is as strong as people fear. But I certainly understand the people being paranoid about the Federal Government.

Mr. HUNTER. Would you work with us if we get Mr. Thompson, Steve Thompson, to work with us in the state counterpart in Fish and Game, and try to retrieve the situation with respect to whether you could have a good mitigation program in place for eighty or a hundred million dollars, the series of ponds that was initially proposed and worked on for 9 months; that if that's possible to retrieve that and make that work, would you work with us to make that go?

Mr. RALEY. Absolutely. I will call the assistant secretary of Fish and Wildlife and Parks as we leave, and if I can't reach him today I'll call Steve. Because on occasion we communicate directly so we're trying to work as a team.

Mr. HUNTER. OK. I think, Mr. Chairman, I think there's some real opportunity there. And I think we've got—we've got to explore

that. If that deal hadn't fallen through we wouldn't be here right now.

Last Mr. Chairman, I'll conclude. I thank you for letting me come in and work with you. Thanks for your leadership. Thanks to Mary and Dave.

And let me just say this. I think the record very clearly establishes that the people of Imperial Valley were never contemplated to bear the burden of saving the Salton Sea. I mean, we had conferences and seminars early on and they all contemplated that there would be a transfer and that we would have to handle the sea in light of the transfer, and that would be a program of the Federal Government, a partnership between the Federal Government and the State of California.

Second, I think it's clear that we have to solve the big element with respect to the Salton Sea that no one has addressed here, that we really kind of just omitted, and that is that you have to solve the salt problem. Because when you get sixty thousand parts per million salt in the sea, everything dies. And that's whether you have a transfer or don't have a transfer. All the scientists that testified before us testified that, transfer or no, the sea would die when it hit sixty thousand parts per million. And it would hit sixty thousand parts per million with or without a transfer. So I think we need to put some focus on that. But I think we need to keep that separate from this transfer, and not hold the people of Imperial Valley hostage to saving the sea when we in the Federal Government haven't come up with a salinity solution.

Mrs. BONO. Would gentleman yield for one quick question?

Mr. HUNTER. Sure. Be happy to.

Mrs. BONO. You keep talking about the people of Imperial Valley being held hostage to cleaning up the sea and salinity when the real question is why should the people of Coachella Valley be held hostage with poor air quality.

Mr. HUNTER. Well, here's my answer to that. I think that you're going to have to have some protections, and I think there's two types of protections. One is to keep the folks in Imperial Valley from being exposed to billion-dollar lawsuits in light of the transfer. But the second is to try to protect the folks of the entire basin, including your constituents, Mary, from the dust problem. So I think any mitigation program—and that's inherent in this legislation that we just drafted, in part to meet your concerns—is going to need to have some type of a ground cover or dust retardant program for the beaches of the Salton Sea as the sea becomes porous. So you have two forms of protection, one part of that protection is to protect folks against an air quality loss. But the other protection is if we're going to move forward and if we're ever going to want a farming community again to make this transfer, they need to have some modicum of protection against massive environmental exposure. We never anticipated that they would have it because we always thought that the sea solution would come before the water transfer. That hasn't happened. That still doesn't mean that it makes any sense.

And here's the last thing, Mr. Chairman, I think everybody has got to look at in California. Our watershed in Colorado is burning up as we speak. We're looking at low flows in the Colorado River.

We're looking at water becoming more and more precious. The whole idea of fallowing is not talked about much. It's glossed over. It really involves two types of fallowing. One is the fallowing of the land that would—fifty thousand acres or so that would free up 300,000 acres of drinking water for people in the cities. But the other fallowing is fallowing twenty thousand acres of land so that you could flow pure water in a fiction in which you may have to flow it over ground that you pretend you're farming but you don't have any seed, so you can say I've done it beneficially into the sea. So we as Californians with this precious and limited supply of water, if we make this agreement to go forward, as some people have urged that we have with this fallowing program, we are locking in a flow of 25- to 50 million dollars worth of water which is either ag water or drinking water, depending on which use you make of it, into the sea to be evaporated when we haven't fixed the big killer of the sea which is going to be salinity, increasing the salt problem. So California needs to make that decision as to whether or not we really want to do that.

If we do that, the other thing we're doing is we're saying never again will we have a water conservation program. Because if you have a field of alfalfa that's tilted and water runs to the end, and that tail water goes to the sea right now through a series of canals, you're now saying that you can no longer have a water pump-back system that pumps that tail water back and runs it again. Because what you called waste in earlier years, that is tail water running off, is now essential for the sea. So any time a farmer does something that keeps that flow from going into the sea, that is, saves the water, he's going to be exposed to environmental lawsuits for depleting the sea.

So I think that—I think that the equity here is, you can't ask a community to sign their name on a bottom line of a contract, contract of which explicitly excludes a certain activity, in this case fallowing—and that's the reason the people in Imperial Valley allowed that contract to go forward. And then after the contract is executed, say for other reasons, for situations which have now changed, you're going to have to reverse your course and you're going to have to pull that particular term out of the contract that you signed.

So I think the best course for us to take at this point would be to relook at this mitigation program, and ask Fish and Wildlife and Fish and Game why, if they were really close on this, why they couldn't come to a conclusion and make an agreement and sign off.

Mr. CALVERT. Thank you, gentlemen. I know that Mr. Raley, you have to catch an airplane very soon. So you are excused.

Mr. RALEY. Mr. Chairman, if you'd allow me one moment, I'd like to take this opportunity to clarify an answer that I gave to Assemblyman Kelly, and apologize. I understood you to be asking the question as to whether or not there was any consideration of the Secretary adjusting the allocations under the law of the river, and the decree in Arizona versus California. My response was a fairly emphatic absolutely not. And I apologize, I think maybe I misunderstood your question that you in fact were asking me that, given nature's control over the situation and the dropping levels in

Lake Mead, would there be changes in the amounts available to California.

Mr. KELLY. In the allocations.

Mr. RALEY. In the allocations. And that is certainly correct. We at Interior do not have the ability to make water. And as the levels in Lake Mead drop through particular elevations, at some point there is no surplus that can be made available. And the law of the river would apply as it existed prior to or regardless of the status of the interim guidelines.

Mr. KELLY. So what's your anticipated—what's your best guess on—this year and next year, is there adequate or not adequate supplies in Lake Mead or storage on the river?

Mr. RALEY. Well, I would say that if the current trends continue for a couple more years, we're going to have some very serious problems.

Mr. KELLY. Yeah. Two years?

Mr. RALEY. My crystal ball isn't that good so—

Mr. KELLY. OK. Thank you.

Mr. CALVERT. All right. I thank you, gentlemen, for coming out. And we appreciate your testimony and answering our questions.

Senator Costa, you had some final questions for this panel?

Mr. COSTA. Yeah, a couple quick questions of the Metropolitan Water District, if Mr. Underwood would come forward to the dais, please.

Mr. COSTA. Getting back to the Quantification Settlement and the ramifications if we don't succeed, if on January 1st we are not able to meet the time line, the loss of water to Metropolitan, I understand, is the most significant and the first felt; is that correct?

Mr. UNDERWOOD. I'm sorry?

Mr. COSTA. The loss of water to Metropolitan Water District is the first to be felt and possibly the most significant; is that correct?

Mr. CALVERT. Gentleman, can we please have him state his name and occupation for the record.

Mr. UNDERWOOD. My name is Dennis Underwood. I'm vice president of the Metropolitan Water District.

Mr. COSTA. You have a new title?

Mr. UNDERWOOD. Yeah, it changes yearly.

Mr. COSTA. OK. Anyway, how much loss of water would be felt as of January 1 of next year if a settlement is not reached?

Mr. UNDERWOOD. If you look through the seven-party agreement, Metropolitan's fourth priority would be protected, which is 550,000 acre-feet, you would have the Met and Imperial program already for another hundred thousand, because that's the transfer that would go. And absent any other actions, that's what you would have. You would have the hundred and—

Mr. COSTA. So how much are you receiving now?

Mr. UNDERWOOD. One-point-two-five. So we would lose six- to 700,000 acre-feet.

Mr. COSTA. You would lose half of your supply.

Mr. UNDERWOOD. Correct. If you're looking at—just in way of magnitude, that is equivalent to roughly a supply for five million people.

Mr. COSTA. Have you attempted to do some plan B, for lack of a better term, preparatory plan as to what you will do if it's not

signed and you lose half of your water supply for the Metropolitan Water District of Southern California serving 16 million people?

Mr. UNDERWOOD. Seventeen.

Mr. COSTA. I'm sorry. You've grown a little bit since the last time I checked.

Mr. UNDERWOOD. The district has a drought management and surplus water management plan. But at this magnitude it would have to—it would have to be some changes and other considerations by the board, because it's greater than what I think would be contemplated under the—

Mr. COSTA. Well, you'd start drawing out of—what is it, Eastside Reservoir? What do you call that now?

Mr. UNDERWOOD. You could pull from some of our storages. But the problem when we do that is you're hurting yourself for the future because you don't—

Mr. COSTA. No, I understand. But you don't have a plan in place if this isn't reached?

Mr. UNDERWOOD. Well, you don't automatically come up with six to 700,000—

Mr. COSTA. No, I understand that. But I think now it's June, we got 6 months left, this is—the discussion we're having here today is not news. I mean—

Mr. UNDERWOOD. And either is our drought management and surplus water program. We do have a program. But I said something beyond that magnitude that would have a severe impact. Even if you went through all of our—

Mr. COSTA. No, I understand. I understand how painful this would be. All I'm suggesting is it seems to me you ought to be developing a plan B in the event that the parties around this room can't hold hands and sing Cumbaya, and figure out how to get this done by December 31st.

I'm committed, and I know Chairman Calvert is committed, and everyone here is committed to doing everything possible that we can to assist you folks to make it happen.

I said at the outset of this hearing as to Chairman Calvert that our goal is to figure out for the purpose of this hearing how to get the Quantification Settlement Agreement reached and signed before December 31st. That's my first priority. Having said that, if I were you guys—I mean, you'd better start—start on plan B.

Mr. UNDERWOOD. Let me respond again to that. Like I said, the storage—or drought management surplus water policy and plan, we have been accumulating storage, whether it's in the upper Coachella, we have over 200,000 acre-feet available in the upper Coachella. We'll have basically at the end of this year Diamond Valley Lake full. We have 80,000 acre-feet in Arizona that we have placed in storage there. We have other storage programs in the Central Valley in programs that can potentially come into play.

The magnitude of it, like I said, follows under our water—or drought management and water supply study or our policy and program. These other parts then come into play, but you can't do that forever, even though you've got a plan.

Mr. COSTA. I'm not suggesting you learn how to live off this reduced diet—

Mr. UNDERWOOD. I'm trying to assure you that we had—that's why our conservation—that's why we're doing—

Mr. COSTA. No, I understand. But I don't believe you have seriously had a briefing with your board—when's the last time you've had a briefing with the board on the 4.4 plan? Mr. Pace maybe—

Mr. UNDERWOOD. Probably about—well, there's a committee that's representing—

Mr. COSTA. No, I know but—

Mr. UNDERWOOD. Last month.

Mr. COSTA. My information there hasn't been a briefing for the entire board on where we are on the 4.4 plan in months.

Mr. UNDERWOOD. Plus we do monthly reports to the board where it's written on the status, CEO submits—

Mr. COSTA. Would you briefly describe and—I'd like you to provide in a separate letter to both of us what plan you have in the event that this is not signed and how you're going to learn to live with half your water allocation from the Colorado River no longer available for use for a period of 6 months or a year or whatever. But I think it's important for us to understand what backup plans the district is attempting to pursue.

I want to move—the time constraints are such that we need to move to the other panel, and I don't want to take that much time. But if you could provide that letter to both of us, that would be helpful.

Mr. UNDERWOOD. I'd be more than happy to.

Mr. COSTA. We'll share it with members of both Committees. The Palo Verde Irrigation District, you have a fallowing program. Could you briefly describe that?

Mr. UNDERWOOD. If you would like, I think it's worth going back to the history of the test program. Back in the early 1990's we also had a west drought. There was about 4 years of drought. I was commissioner of Bureau of Reclamation at that time. And the level of the reservoirs and use in the basin was such that we were going to have to limit California to its 4.4 at that time. This was 10 years ago. There was no surplus guidelines at that time. There were things that changed that allowed continued use of surplus water and unused apportionment of others. But that led us at that time to start looking at what role can a fallowing program play in terms of meeting needs, whether it's short-term or long-term. And that led to a test program in the Palo Verde Irrigation District which occurred from 1992 to 1994, involved over 20,000 acres. The district valley has the use of 104,000 acres that are eligible to receive water. About 90 to 95 irrigated—so you're talking roughly about 22 percent of the valley went through this test program where lands were not fallowed, over 20,000 acre-feet, or 20,000 acres were not fallowed for a 2-year period. That resulted in a savings of about 186,000 acre-feet for that 2-year period. Divide that by two and you get about 93,000 acre-feet or roughly about a hundred thousand acre-feet was conserved during that period of time. That had an impact in terms of jobs. And we had surveys. We had prior surveys, surveys during the program, and post surveys. And that resulted in the loss of about 50 to 60—60 jobs for a hundred thousand acre-feet.

We also found it really had no environmental impact. We also had a required program to do land management so that they would not result in weeds, would not result in soil erosion and air quality problems. And that was a requirement for each of the farmers that participated in the program. So they either had to maintain crops level, sod retainance, what they called clod plowing, which is you turn over the soil to create a crust, or shallow root cover crop, which was supported by precipitation. So consequently there were no air quality problems developed.

Mr. COSTA. How much did Metropolitan pay for this land fallowing program in partnership with—

Mr. UNDERWOOD. It was \$620 an acre-foot. That's the test program.

Mr. COSTA. For the 20,000 acres that were—

Mr. UNDERWOOD. Right. So over the 2 years, in the neighborhood of about \$25 million.

Now that then formed the basis for a long-term program. In this case it was not, will we have to fallow; the farmers were asking, because it was a very beneficial program to the farmers, because they had had bad prior economy and this provided some stability, they had—

Mr. COSTA. They made more money than farming?

Mr. UNDERWOOD. Correct.

Now let me go onto the proposed program now. It's basically the same thing. We're going to tie up land for 35 years. First of all, there is no land retirement. Land would be rotated on up to a 5-year basis. There is no loss of water rights, no change of water rights, no change of land ownership, and no conversion of ag land. So the ag land stays in place. There is a payment up front for the farmer that is equal to basically the value of his land, because we're going to tie it up for 35 years. And then there's an annual payment made, and it's based on almost a farm budget as to what would cost to maintain those land management practices that I talked about, plus also provide a better than average profit for crop.

Mr. COSTA. OK. Without going into further detail again because of time, I would suggest that we submit that effort as an example that we might be able to sit down in further conversations as we talk about various conservation plans, as we lower the rhetoric as good friends and neighbors in attempting to work out our differences.

Last question—

Mr. UNDERWOOD. Let me just—I may have misspoke. It's \$620 an acre on the test program—

Mr. COSTA. Not an acre-foot.

Mr. UNDERWOOD. Right. And on the proposed program it's \$550 an acre.

Mr. COSTA. And did you have a conversion for how much that was an acre-foot of water?

Mr. UNDERWOOD. Yes. If you look at our proposed program, because again, take a maximum of about 3.6 million and a minimum of about 1.8, if you take a maximum of water it's about \$53 an acre-foot. If you take a minimum water, you get roughly a little

over \$200 an acre-foot, and it's roughly in the average of about \$160-\$170 an acre-foot.

Mr. COSTA. So the bottom line is the folks of Palo Verde like the program and are committed to working with you for 35 years.

Mr. UNDERWOOD. Right, because what it does is it gives them a guaranteed revenue.

Mr. COSTA. Well, we'll submit the elements of that program as we sit down and talk in a more serious vein.

Last question. You've got before you a sheet that talks about the planned components as part of the Quantification Settlement Agreement on projects the Metropolitan Water District is committed to pursue. And just quickly, let me ask you, are you familiar with this sheet and the time lines on this?

Mr. UNDERWOOD. Yes, it's—this was dated the 7th of July of '01 so it's probably outdated, but yes.

Mr. COSTA. Yes, I suspect it is, and mine is even further outdated. Mine is 5/4/00.

What I would like you to do, and I'm not going to belabor the Committee again because of time, but I'd like an update on official Metropolitan Water District letterhead as to where you are on the projects that I can identify here—where's those cheaters? Here. I tell you, I'm getting to the age where I really need these darn things and it's embarrassing.

The 1988 agreement obviously is in place. The IID about—further, about halfway down the page, proposed transfer with San Diego-Met water exchange, I'd like an update on that one. I'd like an update on the Cadiz storage conjunctive use program. I'd like an update on the Hayfield Chuckawalla storage conjunctive use program, the Arizona water bank storage program, and the water supply and other agreements with Palo Verde. If you can provide that update with time lines that are hard time lines.

Mr. UNDERWOOD. That—Mr. Chairman, if you look in our statement, it's contained in there. It's in the statement that we give all of these—

Mr. COSTA. I'll check it and we'll confer.

Mr. UNDERWOOD. The same thing on the Palo Verde. The Palo Verde program, there's an addendum to the statement which is the details of the Palo Verde program.

Mr. COSTA. Thank you very much, Mr. Chairman. I'd concede the rest of my time. And I thank you for your patience.

Mr. CALVERT. All right. Thank you, gentlemen. And we thank this panel. You're excused. And we thank you for your time and answering our questions.

So next I would like to introduce our last panel.

Mr. Tom Kirk, Executive Director, Salton Sea Authority. Ms. Kim Delfino, Director of the California Program, Defenders of Wildlife; and Mr. Michael Cohen, the Senior Associate of the Pacific Institute. If you'd please take your seats.

Mr. CALVERT. Mr. Kirk, you're recognized for 5 minutes. You've probably already heard my further admonitions of the 5-minute rule. We would appreciate you sticking to that. Thank you.

**STATEMENT OF TOM KIRK, EXECUTIVE DIRECTOR,
SALTON SEA AUTHORITY**

Mr. KIRK. I'll do my best.

Thank you for having us, Mr. Chairman. And thanks to the rest of the participants here, Congressman, Congresswoman, Senator, Assemblyman. And thank you for the support you've given us over the years.

There's a lot of good things happening around the Salton Sea today even as we speak. The main subject of course is the California plan, and my main interest of course is the Salton Sea.

I do want to note for the record that the Salton Sea Authority Board of directors is not opposed to the QSA or the California plan. We are, of course, deeply concerned about one element of the QSA, and that's the IID San Diego Water transfer, the conservation and transfer program. And of course there's been a lot of discussion about how that transfer could be accomplished. We're particularly concerned with the onfarm transfer alternative or proposal project as it's currently proposed. And we all appreciate how unusual this conservation program is in many ways. To my knowledge it is the only major water transfer, other than one done in 1988 in the same region, that involves the conservation of water flowing downhill. It's the water that's flowing downhill to some other use, in this case, the Salton Sea. Typically the way it's done, as it may be done in Mr. Costa's district, is in the fallowing. And fallowing involves the transfer of consumptively used water, the water that would have been used in the crops and what transpiration uses, and that has less of an environmental impact. The first is a one-to-one impact, the transferring of the water flows to the Colorado. The fallowing would have a one-to-three impact, and could have no impact at all, but of course it does have economic impacts. And you've already heard from two of my board members in the Salton Sea Authority Board, and there are others as well that are concerned about the economic impacts of the fallowing program.

You've asked me to address the impacts of the program, the conservation program on the Salton Sea, and its restoration. You've heard about the inflow impacts. If the inflow is reduced, elevation drops. It's a pretty simple and simplistic relationship. And elevation, when elevation drops, it concentrates the water in the Salton Sea. And Congressman Hunter is absolutely right that salinity is one of our major problems in the Salton Sea. In fact, it's probably the heart attack of the Salton Sea, and the key element to our restoration program is to pull salt out of the Salton Sea. Unfortunately with a smaller Salton Sea, it's made much saltier. It makes restoration that much more difficult. It perhaps is not an easy task as it is, but it's made incredibly more difficult if the salinity of the sea goes off the charts, which it would under the proposed conservation project. And of course the reason for that is all the salt in the top layer of the Salton Sea gets concentrated in a smaller Salton Sea.

To give you a sense of what could happen, you'll find this in Exhibit 8 of my testimony, under the current inflows of the Salton Sea, the restoration is a several hundred million dollar project. In-sea solar evaporation ponds appear to be the most cost effective way of going. It works for the private sector, it should work for us

as well. Under that kind of program it's several hundred million dollars, 3-, \$400 million. If the sea looks like that where the sea becomes hypersaline very quickly, the restoration costs dramatically increase. Instead of pulling four or five or six million tons of salt out, you pull ten or 15 or 20 or 25 million tons of salt out every year. Restoration becomes a two- or three billion dollar project. And again, it doesn't matter what technology you use.

Under that kind of scenario, Mr. Chairman, despite your power and progress on Salton Sea issues, I don't think it could be authorized. And even if you were successful in authorizing that size of a project, I don't think it could be funded and built quickly enough.

I've got a few more points, if the Chairman allows.

Mr. CALVERT. Very quickly. As you understand, any additional comments will be entered into the record.

Mr. KIRK. Thank you.

Mr. KIRK. The last set of points I want to make is a Mark Twain quote. We're used to hearing the water quote about "Water and whiskey, one's for fightin', one's for drinkin', and we know which is which." Another Mr. Twain quote, upon reading about the death—his own death in an obituary is, "The report of my death was an exaggeration."

In the '70's we were told the Salton Sea would collapse by 1985. In 1988, under the IID-MWD water transfer before the State Water Resources Control Board, we were told then, go ahead and transfer water because the sea would be dead by the time it reached 40 parts per thousand. The Sea is at 44 parts per thousand today. It's doing quite well. It certainly has its problem, but it's very vibrant. And now we're told in environmental documents that were put forward that the Salton Sea will speed to its decline even without restoration and even without the water transfer. It's going to be a while before that happens if we continue to get the water we're currently getting.

To top it all off, I'm very concerned that we're also exaggerating the complexities and the costs of restoration. I've heard recent estimates that it's a billion dollars if we do nothing with respect to the water transfer. That certainly doesn't jibe with the work of the very good engineers out there.

So just like Mark Twain was concerned about the exaggeration of his own death, I'd continue to be concerned about the exaggeration of the death of the Salton Sea. Thank you very much.

[The prepared statement of Mr. Kirk follows:]

Statement of Tom Kirk, Executive Director, Salton Sea Authority

Introduction

Thank you for the invitation to participate in this important hearing. The Salton Sea Authority is pleased to offer our views of how the restoration of the Salton Sea can be accomplished while at the same time moving forward with the California Plan. As you have requested, my testimony will focus on the relationship between the California plan for the Colorado River and restoration of the Salton Sea.

I would also like to thank the members of the Salton Sea Congressional Task Force for their support for our efforts and those of the many Federal agencies involved in the important work that we are engaged in to plan, design, operate and test restoration projects that are economically and environmentally sound.

I am the Executive Director of the Salton Sea Authority. The Salton Sea Authority is an agency that was established in 1993 under the State of California's joint powers agency statutes. The Salton Sea Authority was formed to direct and coordinate actions related to improvement of water quality and stabilization of water ele-

vation and to enhance recreational and economic development potential of the Salton Sea and other beneficial uses. Notably, the Authority was formed by four agencies with direct and significant stakes in the region and the health of the Salton Sea: Imperial Irrigation District, Imperial County, Coachella Valley Water District and Riverside County (see Exhibit 1, Salton Sea Authority background). State legislation passed last year will allow the Torres Martinez Desert Cahuilla Tribe to be a full member of the Authority in the future.

I was hired as the Authority's first and only executive director in late 1997. Since that time, I have managed and co-managed the Salton Sea Authority's environmental compliance, engineering design public outreach, governmental affairs, and scientific efforts. I have an extensive background in environmental policy and planning (see Exhibit 2, Tom Kirk's Qualifications).

Background

The Salton Sea Authority is not opposed to the Quantification Settlement Agreement nor, necessarily, to the transfer of water from the Imperial Irrigation District (IID) to the San Diego County Water Authority and the Coachella Valley Water District and/or Metropolitan Water District of Southern California. The Salton Sea Authority understands the need and generally supports the implementation of the California 4.4 Plan, which is designed to reduce California's use of Colorado River water. However, the Salton Sea Authority is deeply concerned about how water will be transferred and the environmental effects of the water transfers. The Salton Sea Authority Board of Directors has adopted the following positions with respect to water transfers:

- Oppose projects which significantly lower the level of the Sea;
- Insist that water transfers comply with environmental laws;
- Urge that water transfers are accomplished consistent with the goals and objectives of full Sea restoration. (see Exhibit 3: Salton Sea Authority Resolution No. 02-02)

The Salton Sea is one of the most important ecosystems in the United States for birds (see Exhibit 4: Excerpts from the Guide to the Salton Sea Restoration Project Alternatives). As proposed, water transfers could make restoration of the Salton Sea infeasible and have other significant impacts on the health of the environment and economics of the Coachella and Imperial Valleys.

The proposed project (Proposed Project) as described in the IID Water Conservation and Transfer Project Draft Environmental Impact Statement/Environmental Impact Report and Draft Habitat Conservation Plan (Transfer EIR), contractual provisions in the agreement between IID and San Diego County Water Authority and public pronouncements indicate that water conservation will occur through reducing or eliminating tail water and improving delivery systems in the Imperial Valley. Virtually all of the water conserved in this manner would be water that would otherwise flow to the Sea. The inevitable result would be significant reductions in inflows to the Sea. In order to restore and maintain the Sea, it is vital to maintain inflows into the Sea that are close to historical averages. Significant reductions in inflows to the Sea will accelerate the Sea's salinity increase beyond our ability to remediate, leading to the death of the Sea as we know it.

On the other hand, if conservation methods are mitigated as suggested under the Transfer EIR's Habitat Conservation Plan 2 and/or implemented through a water generation alternative that employs fallowing, most, and possibly all, of the impacts at the Sea can be avoided. The reason: water conserved through fallowing is mostly, and can be completely, associated with crop evapotranspiration. Hence, most, if not all of the water generated and transferred would not have ended up in the Sea anyway, it would have been consumed in the growing process. (see Exhibit 5, Riverside Press Enterprise May 31, 2002, Water pits land against sea article and Exhibit 6, Desert Sun June 4, 2002, Water transfer rhetoric shifts to land article). Exhibit 7, Conservation Methods Powerpoint Presentation, illustrates the different hydrological impacts of fallowing and efficiency improvement.

Fallowing is not a perfect solution: it may cause economic impacts, particularly job impacts. Aggravating the difficult economic conditions in the Imperial Valley is a real concern. The Salton Sea Authority resolution (Exhibit 3) recognizes that both environmental and economic issues need to be satisfactorily addressed:

- water transfer solutions must properly mitigate impacts on the Salton Sea and address economic and social impacts in the Imperial and Coachella Valleys.

Proposed Conservation/Transfer Project's Impact on Restoring the Sea

The attached excerpts from "Draft Assessment of Salinity and Elevation Control for Varied Inflow" (Exhibit 8) clearly demonstrates the tremendous cost implications that a reduction of inflows will have on restoration efforts. As Table 2 and

Figure 9 of Exhibit 8 demonstrate, restoration is projected to cost about \$250 million, present value, under “current inflows”, and balloon to over \$2 or \$3 billion or more under the reduced inflows envisioned in the Draft EIS/EIR. Whether restoration costs start at \$250 million or \$500 million or some other amount, reduced inflows have a dramatic effect on restoration costs; a Sea that is made smaller and saltier is very difficult to “restore”. That cost difference, between restoring the Sea under current inflows and restoring the Sea under reduced inflows is staggering. Put another way, the impact of reducing inflows on restoration costs range between \$200 and \$300 per acre-foot of water reduced per year. This, of course, is the approximate price of the water provided for in the agreement between the IID-SDCWA. You can understand why the QSA parties do not want to link restoration and the Proposed Project; such a link would likely make the deal economically infeasible.

The Proposed Project does not take into account this dramatic impact on the cost of restoration in the EIR. There has been some discussion about applying the estimated costs for the Proposed Project’s habitat conservation plan, assumed in the Transfer EIR to be between \$350 million and \$800 million, to the restoration project, if a restoration project is authorized. More recent estimates of the Proposed Project’s environmental costs have been quoted in the low one hundred million dollars. Federal legislation has been introduced to fund the environmental costs associated with the Proposed Project; the legislation caps those costs at \$60 million (H.R. 2764, Colorado River Quantification Settlement Facilitation Act) and provides a mechanism to apply that funding to restoration of the Sea, if restoration is authorized. Whether the Proposed Project’s and/or legislative financial contributions to restoration are \$60 million or \$160 million, if the Proposed Project’s impact on the Sea is well over \$1.5 billion, who will pick up the difference?

It has been suggested that the 1998 Salton Sea Reclamation Act (P.L. 105-372) was designed, in part, to fix the Sea under reduced inflow conditions. The Act actually says that the Secretary:

“shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water conservation, account for transfers of water out of the Salton Sea Basin, and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet or less per year.”

The Secretary was to develop a report, with the Salton Sea Authority, that evaluated restoration options under reduced inflow conditions. Such a report is still forthcoming. In a recent letter to the Secretary of Interior, even the Sea’s greatest legislative supporters acknowledge that the report should evaluate multiple inflow conditions (see Exhibit 9, Letter to Secretary Norton from Congressional Salton Sea Task Force). Evaluating those conditions is an order of magnitude less committal than paying for restoration under those conditions.

Based on my experience working the halls of government to seek support for restoration, I find it unlikely that Congress and the State of California would be willing to fund a multi-billion dollar restoration project. But even if they were, a restoration project massive enough to mitigate the impacts of reduced inflows caused by the proposed project would likely be technically infeasible.

With a sea that is becoming much smaller and saltier, restoration must become much larger and much more complex. Under such a scenario, marshaling the necessary massive authorizations and appropriations from government will take time. Designing and permitting such a massive project will take time. And to build a large, complicated project and probably to do so in the deepest, most expensive and most seismically risky areas of the Sea will take time. Even if all of the political and financial support were available within a few years, it is unlikely that restoration could occur in time to preserve a fishery at the Sea and the values that the fishery supports.

If not full restoration, let’s try partial restoration or build fish ponds/hatcheries

Another solution has been proposed by the Pacific Institute: create a small impoundment to provide a fishery for fish-eating birds. The Pacific Institute proposal assumes that the water transfer will be accomplished through on-farm conservation, with resulting major reductions of inflow. It is a serious proposal, serious enough that the Salton Sea Science Office assembled a group of experts to evaluate the concept. The experts found the proposal very unsatisfactory. Major concerns included:

- The Likelihood of creating a Selenium sump, an issue that has attracted much attention since the bird deformities and reproductive failures at the Kesterson Reservoir.
- Concentrating nearly the same nutrient load into a body of water that is much smaller than the Sea, thus aggravating eutrophic conditions.

- Exposing large areas of additional shoreline around the remaining, hypersaline water body because of evaporative losses of the partial fix and constructed wetlands.
- Lastly, this was no easy, cheap fix. Cost estimates ranged well over \$1 billion. The partial-Sea solution carries a full-Sea restoration price tag.

The Transfer Draft EIR included a similar partial-fix solution: Habitat Conservation Plan method 1, Hatchery and Habitat Replacement to mitigate impacts. The Transfer EIR provided little in the way of details, stating instead “the specific approach for minimizing and mitigating the impacts on birds have not been defined”. In any case, the California Department of Fish and Game and the U.S. Fish and Wildlife Service have indicated that the proposed hatchery and habitat replacement mitigation plan would not successfully mitigate impacts on endangered species. It is my understanding that the mitigation strategy has been eliminated from further consideration.

The Claim that the “Proposed Project Merely Speeds the Inevitable Up”

The Transfer EIR addresses the various resource areas that would be affected by the Proposed Project. However, much of the public discussion about the effects of the transfer revolves around “temporal” impacts. These are the impacts associated with speeding up the decline of a declining resource.

If restoration is not implemented, the Sea’s fishery will collapse. Under a projection of historic average inflows, of about 1.34 million-acre feet per year, the Sea’s fishery will collapse after 2060 (see Figure 1, Exhibit 8, Draft Assessment of Salinity and Elevation Control for Varied Inflow). The Transfer EIR does not measure its impacts against the historic average, instead, a new baseline is defined. The new baseline is about 1.23 million-acre feet per year. Under the new baseline, the fishery collapses by about 2023 (see Figure 1, Exhibit 8, Draft Assessment of Salinity and Elevation Control for Varied Inflow). Under the Proposed Project, the temporal impact, i.e., the difference between the collapse of the fishery under the transfer proposed project inflows and the collapse of the fishery compared to historic average inflows is about 50 years. When the Proposed project is compared, as the Transfer EIR does, to the new baseline, the impact is about 11 or 12 years. I have some serious concerns about the baseline used in the Transfer EIR. The Authority’s concerns are expressed in formal comments on the Transfer EIR (see Exhibit 10). I believe the baseline used significantly understates the temporal and other inflow-related impacts.

Project proponents argue that that if the Sea is going to die anyway, and the transfer speeds the process up, what is the harm? This is the “you are going to die anyway in sixty years, mind if I shoot and kill you today argument.” To add another wrinkle to the argument, assume that you were going to die in fifty years of cancer. By killing you today, or in eleven years, I foreclose the opportunity that may come in the future to develop the cure for cancer. In the same way, accelerating the decline of the Sea and making it that much more complicated and expensive to restore the Sea forecloses an opportunity to cure its ailments.

The temporal impacts are not the only impacts. The transfer document identifies impacts on other resource areas. I have significant concerns about the adequacy of impact assessment and mitigation in many other resource areas, including:

- The inadequate assessment of the irreversible impacts on restoring the Salton Sea.
- The lack of detail provided in describing mitigation of biological impacts.
- The insufficient assessment of air quality impacts and the lack of mitigation details.
- The characterization that potentially increased odors from the project are insignificant because of the small number of people who would be subject to such odors.
- The premise that relocating boat launching facilities is adequate mitigation for the loss of recreational resources.
- The premise that relocating boat launching facilities is adequate mitigation for the aesthetic impacts of a greatly receding shoreline.
- The understatement of environmental justice impacts (no impacts are described in the wealthier San Diego County and most of the negative impacts are found in the poorer Imperial County and eastern Coachella Valley).

The concerns described above are similar to those expressed through Resolutions of Concern Regarding the Effect of Water Transfers on the Salton Sea (see Exhibit 5, Salton Sea Authority Resolution No. 02–02 and Exhibit 11, Coachella Valley Association of Governments Resolution No. 02–002).

The Coachella Valley Association of Governments adopted its resolution after hearing about potential for airborne dust. The resolution was developed in consulta-

tion with the development community, the Coachella Valleys' cities, Riverside County, the Coachella Valley Water District and the Torres Martinez Desert Cahuilla Tribe.

The Authority's resolution is similar. The Salton Sea Authority Board of Directors unanimously approved it on March 28, 2002. The Board passed the resolution after hearing testimony from CVAG's representative, residents around the Sea and environmental organizations. Notably, residents around the Sea were able to compile a petition of more than 1100 names to present to the Salton Sea Authority Board to urge adoption of the resolution (see Exhibit 12: Memorandum from Linda Quesnell, Executive Secretary of the Salton Sea Authority regarding Petitions associated with the Water Transfer). Through their resolutions, both the Salton Sea Authority and Coachella Valley Association of Governments resolve to oppose projects that significantly lower the level of the Salton Sea. Both resolutions stress compliance with environmental laws and adequate mitigation of impacts.

Is Restoration Possible Anyway?

Yes. There are proven methods to withdraw salt from salt water. Restoration is very feasible under inflows close to the historic average (see Exhibit 8: Draft Assessment of Salinity and Elevation Control for Varied Inflow). Solar evaporation ponds have been used for millennia to extract salt from salt water. The Salton Sea Authority, in partnership with the Bureau of Reclamation, has constructed a solar evaporation pond pilot project at the Sea and is testing salt disposal techniques at another pilot project at the Sea. Additionally, we recently initiated a joint project with Cal Energy to use some of their waste heat from their geothermal plants at the Sea to test a desalinization process. Under continuation of historic average inflows, restoration is certainly possible.

Is it politically possible? Ten years ago, there may have been many voices that said no. Today, there is a larger chorus of voices that say yes. Five years ago, the Salton Sea Authority had assembled less than \$100,000 to support restoration. Today, over twenty million dollars has been authorized, appropriated and/or expended to support restoration. This funding has been used in a very cost effective manner to not only run pilot projects but to also support the important work of the Salton Sea Science Office and to attack some of the more challenging problems facing the Sea such as wildlife disease, and shoreline cleanup. In collaboration with the University of Redlands, we have started an education project for middle and high schools and have also started work with KentSeaTech on the problem of eutrophication. Ten or fifteen years ago, few, or perhaps no national and statewide environmental groups stood up to defend the Salton Sea. Today nearly every major environmental group in the state is weighing in on the importance of the Sea, as evidenced in the parties participating in the current State Water Resources Control Board hearings. The work of late Congressmen Sonny Bono and George Brown began much of the restoration initiatives underway.

After the untimely death of Sonny Bono, the Salton Sea Reclamation Act was passed. The Act, for the first time, put the Federal Government on record to proactively plan for restoration. The Act and the Secretary of Interior kicked off an intensive scientific process that has provided a wealth of information and insight about this valuable and complex ecosystem.

Congresswoman Mary Bono, Congressman Duncan Hunter, Congressman Ken Calvert and Congressman Jerry Lewis, as members of the Congressional Salton Sea Task Force, have continued their support for restoration. Support for addressing Salton Sea related issues has increased by the state of California as well, with Secretary of Resources Mary Nichols supporting a budget change proposal that ultimately provides additional resources to the Department of Fish and Game, Department of Water Resources and Regional Water Quality Control Board to address Salton Sea issues.

Conclusion

The Sea is a critical environmental resource. Restoration of the Sea is made extremely costly and, very likely, impractical with major reductions of inflow. The Proposed Project has significant detrimental impacts on the Sea. Those impacts should be avoided, through pursuing conservation alternatives that do not reduce inflows to the Sea, or they should be fully mitigated. The Authority has been diligently testing and demonstrating projects and programs to improve the Sea and, with your continued support, is committed to its restoration.

NOTE: Attachments to Mr. Kirk's statement have been retained in the Committee's official files.

Mr. CALVERT. Thank you.

Ms. Kim Delfino, director of the California program of the Defenders of the Wildlife, you're recognized for 5 minutes.

**STATEMENT OF KIM DELFINO, DIRECTOR,
CALIFORNIA PROGRAM, DEFENDERS OF WILDLIFE**

Ms. DELFINO. Good afternoon. My name is Kim Delfino. I'm the director of the California program for Defenders of Wildlife, which is a national environmental non-profit organization. And I want to thank the Chairman for inviting us to testify today, and acknowledge and also thank the distinguished members here on the Committee.

I just want to start off by saying the Defenders of Wildlife is and has been for a number of years focused on protecting and restoring historic Colorado River Delta, and most recently, within the last year, focusing in on the Salton Sea ecosystem, which is a part of the delta. We are also supportive and encourage the State of California to reduce its water use to its original allocation of 4.4, and in particular we are not opposing water transfer as a means of implementing the 4.4 plan.

For more than a year we have been working to ensure that the water transfer proceeds in a way that was not at the expense of the Salton Sea and its surrounding communities, the environment, and also the integrity of our state and Federal laws. We have actively participated at all levels on this water transfer, submitting comments, as part of the draft EIR/EIS and the HCP. We have been members for the state water board proceeding and also active in the legislative efforts that have been going on in this issue.

The transfer as it's originally been proposed with ongoing conservation will have impacts on the Colorado River with the point of conversion, it will have growth-inducing impacts in the service area for San Diego and Coachella, and most dramatically, which is the focus of most of my comments here today, will have serious impacts for the Salton Sea.

Now, just briefly, why do we care about the Salton Sea. I'm not going to belabor the point. But it is an area of national significance for avian biodiversity. More than 400 birds species exist at the sea. That's 70 percent of California's bird population, a diversity of bird population, 90 percent of the white pelicans. It's the only inland breeding spot for the endangered or the threatened brown pelican. And I can go on and on and on. The point is, the sea is an important research both in terms of biodiversity and also for recreational purposes. And in fact, it is those very recreational purposes that has brought the conservation community and the recreational community together in our efforts to restore and stabilize the Salton Sea.

I think Mr. Kirk has gone into and I think a lot of people have already described what onfarm conservation will do to the sea. It will significantly accelerate the salination of the sea. It will expose significant amounts of seabed to prevailing winds. Our expert, Ted Shady, who has worked for more than 15 years in the Owens Valley Project, submitted very extensive information to the State Water Resources Control Board on that very issue. And I think—and we'll have salinity impacts in the drains, and of course impact

the feasibility and the costs associated with reclaiming or stabilizing the sea.

For all of these reasons I think we're seeing that the dialog for how we implement the water transfer is shifting. Department of Fish and Game has already submitted a letter saying that the Alternative 1, which is the fish pond concept, will not satisfy state endangered species law. So now we're seeing the dialog shift to the issue of fallowing and how do we implement the transfer.

What we need right now really is time. And we need time to evaluate air quality impacts, both in terms of at the sea and if we do fallowing. We need time to evaluate what fallowing will do with respect to third party impacts. And with fallowing—you know, my organization understands the concerns of the Imperial Valley, and unfortunately we don't have enough information before us right now to make a real determination of what the true costs of fallowing will be. We understand that and recognize that, and we wish that maybe Imperial Irrigation District could have done maybe a little more toward figuring out the costs associated with that. But the point is we need more time. But it appears that we don't have the time. And I think that Mr. Raley made that very clear today, especially with respect to the Federal Register notice that will be shortly appearing.

So what do we recommend. I think our recommendation has been echoed here today, and that is we do—and this is the recommendation we've put before the State Water Resources Control Board—a conditional fallowing or 5-year conditional approval of the transfer. Because we need that time, we need the time to evaluate what these impacts are going to be. We would recommend that the water board approve a conditional fallowing for 5 years during that time or approve the permit for 5 years. During that time IID would undertake a voluntary fallowing program. And during that time we'd also work on the reclamation plan for the Salton Sea, and we would create a comprehensive and well-participated in program for coming up with third party impacts and for growth-inducing impacts for San Diego.

I just will sum up then. We have been actively involved in the effort, both state and Federal legislation, mostly state. Our position is that if we do the conditional approval there will be no need for Federal legislation providing sufficiency language or exemptions from environmental laws whether on the state or Federal level, except with the caveat that we do acknowledge there will be a need to address the Fully Protected Species law. And my organization has been working very closely with Senator Kuehl on SB 482, and hope that that issue will be resolved in time for signing the QSA. Thank you very much.

Mr. CALVERT. Thank you, gentlelady.

[The prepared statement of Ms. Delfino follows:]

**Statement of Kimberley Delfino, California Program Director,
Defenders of Wildlife**

Good morning. My name is Kimberley Delfino, and I am the California Program Director for Defenders of Wildlife. On behalf of our more than 450,000 members, I wish to thank you, Mr. Chairman, and the other members of this Subcommittee for inviting me to testify today on the "Implementation of the California Plan for the Colorado River."

Defenders of Wildlife is committed to the conservation and restoration of the historic Colorado River Delta, which includes the Salton Sea ecosystem. Defenders also supports the efforts of the state of California to reduce its use of Colorado River water, including the transfer of up to 300,000 acre feet of water from Imperial Irrigation District (“IID”) to the San Diego County Water Authority (“SDCWA”), Coachella Valley Water District (“CVWD”), and Metropolitan Water District (“MWD”) (hereinafter referred to as the “IID water transfer”). Defenders has been working for more than a year to ensure that the IID water transfer proceeds in a way that is not at the expense of the Salton Sea and its surrounding communities, the environment, and the integrity of our state and Federal environmental laws. As part of our efforts, we have submitted extensive comments on the environmental documents for the proposed water transfer, participated as parties in the administrative proceeding before the State Water Resources Control Board to approve the transfer of water rights, and are part of the intensive negotiations on legislation involving the transfer pending before the California Legislature. My testimony today will include a discussion of why we believe the Salton Sea is an important resource, the impacts of the proposed water transfer, how we believe the water transfer should proceed, and pending state and Federal legislative efforts.

Although I present this statement on the behalf of Defenders of Wildlife, it was prepared in consultation with the Planning and Conservation League, National Audubon Society—California, National Wildlife Federation and Sierra Club California. The effort to protect the Salton Sea has brought together a full range of conservation and recreation organizations committed to preserving and protecting the Salton Sea. See “Joint Statement of Conservation and Recreation Organizations on the Future of the Salton Sea” (April 22, 2002) (Attachment A).

I. BACKGROUND

California’s Colorado River Water Use Plan is the result of an unprecedented effort—an ambitious plan for California to reduce its diversions of water from the Colorado River by 600,000 - 800,000 acre feet of water per year. Under the Interim Surplus Guidelines, California will go on a “water diet” for the next 15 years, cutting back its use of Colorado River water until it reaches its original allocation of 4.4 million acre feet per year. Potential beneficiaries of this plan are the other six Colorado River Basin states, the Colorado River Basin’s Indian tribes, Mexico and possibly the long-neglected Colorado River Delta and Gulf of California. While Defenders is extremely concerned about the impact of the Interim Surplus Guidelines on the availability of water to serve the needs of the Colorado River Delta, for purposes of this hearing, I am going to restrict my comments to the proposed IID water transfer.

As part of California’s Colorado River Water Use Plan, the four major water districts in Southern California (IID, MWD, CVWD and SCDWA) have joined together to implement the Quantification Settlement Agreement (“QSA”), which includes the IID water transfer. The original proposal was to generate up to 300,000 acre feet of water through a combination of improvements to the irrigation system of IID and on-farm conservation. As I will discuss later, this proposal appears to be shifting from on-farm conservation to potentially fallowing land to generate water.

II. THE SALTON SEA AND THE IID WATER TRANSFER

As would be expected for a project of this scale and complexity, the originally proposed transfer would have significant impacts on natural resources and the environment throughout Southern California. There will be impacts on the Colorado River from the changes in points of diversion. The transfer will have growth-inducing impacts in the San Diego County Water Authority service area, which will have an adverse impact on fish and wildlife in San Diego County. Most dramatically, the transfer will have an enormous, perhaps decisive, impact on the Salton Sea and the environment in both Imperial and Coachella Counties. The decision on this transfer is also a critical decision point for the Salton Sea, and the shape of this transfer could determine the future of the Sea.

The Salton Sea is currently an environmental and recreational resource of the utmost importance, a resource of statewide and national significance. As wetlands in California, Mexico and other parts of the West have disappeared, the Salton Sea ecosystem has become important habitat for hundreds of bird species, and a critical part of the Pacific Flyway. More than 400 species of birds have been recorded at the Salton Sea—70 percent of all bird species within California. It is this combination of bird diversity and important feeding and breeding habitat that makes the Salton Sea an essential component in maintaining bird populations. At times, the Sea supports 90 percent of California’s white pelican population, the only North American inland breeding site for threatened brown pelicans, and more than 90 per-

cent of the North American population of eared grebes. Other endangered and threatened species found at the Sea include the Yuma clapper rail, snowy plover and mountain plover. The Salton Sea ecosystem is a crown jewel of avian biodiversity that must be sustained for future generations.

The Sea also supports an active recreation industry that contributes to the health of the local economy. The wealth of avian biodiversity has made the Salton Sea a popular destination for bird-watchers, and has inspired an annual bird festival. The abundance of waterfowl has also made the Sea popular with hunters. The diversity and abundance of birds at the Sea are due in large part to its productive fishery which includes several popular sportfish, including Tilapia, Sargo, Corvina and Bairdella. More than 400,000 anglers visit the Sea annually for sport and subsistence fishing, drawn by the estimated 160 million fish that live in the Sea today. Other recreation includes boating and other water sports.

The continued viability of the Sea is integrally intertwined with the viability of agriculture, a cornerstone of the local economy. Just as recreational activities based around the Sea contribute to the local economy, agriculture provides water to the Sea and habitat for many species. Without agriculture, the Sea would quickly evaporate.

Unfortunately, if the IID water transfer is approved as originally proposed, the prospects for sustaining and restoring the resources at the Sea are grim. For every acre-foot of water transferred from IID, an acre-foot will be lost at the Salton Sea. At full ramp-up, inflows to the Sea will be reduced by approximately 300,000 acre feet, nearly one-quarter of the Sea's current inflows. The surface area of the Sea will shrink by as much as 50,000 acres.

The transfer, in its original form, could set in motion a process of rapid ecological collapse at the Salton Sea. The reduction of inflows will greatly increase the rate of salinization at the Salton Sea, with an immediate adverse effect on the fisheries there. Although the Salton Sea's fish are currently stressed by the Sea's salinity, nonetheless, it is estimated that the Sea could support fish for as much as another fifty years if inflows remain constant. With the proposed transfer and actions it would trigger, the Sea could become too saline to support fish within little more than a decade.

With the decline of the fisheries and the shrinking of the Sea, there will inevitably be a drastic decline in the astounding bird populations at the Sea. When the fish go, so will the white pelican, brown pelican, black skimmer, and other fish-eating birds. And those birds that do not depend on fish for sustenance may encounter difficulties as well, as the conditions for invertebrates at a hypersaline Salton Sea will differ substantially from those at Mono Lake, which sustains large numbers of invertebrates and invertebrate-eating birds. In addition, the shrinking of the Sea will result in the loss of brooding, roosting and foraging habitat for a number of bird species.

The decline of the Sea as a natural resource will also mean its decline as a recreational resource. Not only will the decline of the fishery mean less anglers, but a shrinking Sea will also become less attractive to other recreationists—the campers who currently enjoy the seaside campsites, the sightseers who admire some of the most beautiful vistas and spectacular sunsets in the California desert.

The transfer will not only cause a precipitous decline in the resources at the Salton Sea, it may well eliminate the possibility of a restoration plan. As I am sure the Salton Sea Authority will testify before the panel, restoration may become technically and financially impractical if inflows are reduced by 300,000 acre feet.

However, impacts from the original IID water transfer proposal are not confined to the Salton Sea. According to the California Colorado River Basin Regional Water Quality Control Board, selenium will be concentrated within IID's drains as runoff from the fields decreases, and those increased concentrations will pose a hazard to whatever wildlife remains or inhabits a restored Sea and the drains in the Imperial Valley. In addition, exposed seabed could cause dust emissions in both the Imperial and Coachella Valleys comparable to those at Owens Lake, creating an environmental disaster in an area that is already plagued with serious air quality issues. The mitigation that will inevitably be required for air quality problems of this magnitude could cost hundreds of millions of dollars. Thus, it is not only the environment of the Salton Sea that is threatened by the original transfer proposal.

Of course, in theory, it might be possible to mitigate for these impacts. However, the mitigation measures proposed for the original version of the water transfer fall into two categories: the inadequate and the improbable.

Alternative 1, set forth in the draft water transfer Habitat Conservation Plan ("HCP"), appears to be the mitigation proposal preferred by IID. This alternative is a proposal to provide hatcheries and fish ponds adequate to support a portion of the fish-eating birds that now rely on the Sea for 75 years. As has been demonstrated

before the State Water Resources Control Board proceeding and detailed in voluminous comments by the conservation community, this proposal is riddled with unanswered questions, technically flawed, and is still unfunded. Not surprisingly, it appears that the California Department of Fish and Game and U.S. Fish and Wildlife Service will not permit this alternative as part of the water transfer HCP.

This leaves us with HCP Alternative 2, which would provide the Sea with water to make up for reduced inflows by fallowing land and would minimize or eliminate many of the most severe environmental impacts. In fact, if HCP Alternative 2 is adopted, or if the transfer were simply implemented via fallowing, our concerns regarding environmental impacts would likewise be minimized.

However, we would be remiss to characterize fallowing on a large scale in the Imperial Valley as a "simple" solution. This solution is hardly simple. In an area that is largely dependent upon agriculture and has an unemployment rate hovering around 25%, the idea of taking large amounts of land out of production is not an easy one for the community to accept, especially when community fears are fanned by pronouncements of overblown job loss figures. IID's own Citizen Advisory Commission estimates that job loss from fallowing would be more along the lines of 500 jobs rather than the estimate of more than 1,400 jobs. See Executive Summary, "Independent Analysis of the Economic Impact Studies in the IID Water Conservation and Transfer Project EIR/EIS," prepared for the Community Advisory Commission of the IID (April 9, 2002) (Attachment B). Third party impacts can be addressed, but they need to be sufficiently evaluated and a plan needs to be implemented and funded, something that had not yet been done by IID.

III. HOW SHOULD THE IID WATER TRANSFER BE STRUCTURED TO ADDRESS ENVIRONMENTAL AND ECONOMIC CONCERNS?

Returning to the question of how to structure the water transfer, it is clear that a transfer proposal using on-farm conservation will degrade the Salton Sea as a fish, wildlife, and recreational resource and possibly preclude its restoration, worsen the water quality problems in the drains and rivers of the Imperial Valley and impair their beneficial uses, and potentially cause severe dust storms in the Imperial and Coachella Valleys. Nevertheless, despite these impacts, there are some proponents of the transfer who suggest that somehow these impacts are reasonable when viewed in the context of the transfer's importance to California in reducing its use of Colorado River water. And as we will no doubt hear today from the Department of the Interior, the Interim Surplus Guidelines are contingent upon execution of the QSA by the end of this year. According to the Department of the Interior, if the QSA is not executed in a timely fashion, the Guidelines will be suspended and Southern California will lose its access to surplus Colorado River water. Something else to keep in mind is that this water transfer will, as a practical if not legal matter, set a precedent for future large-scale water transfers.

Defenders supports the objective of reducing California's reliance on surplus Colorado River water. We are aware that the Interim Surplus Guidelines appear to be contingent upon the QSA, although it also appears that California could meet at least the first and possibly the second benchmark of those Guidelines with existing programs, suggesting that the deadline may be less inflexible than it appears at first glance. And we certainly agree that the water community, including the environmental stakeholders in that community, will look to this transfer for a model of transfers to come.

Indeed, it is precisely the significance of the issues and the high profile of this transfer that makes it all the more important that its environmental consequences are dealt with up front and completely. The reliability and long-term predictability that both IID and the other water agencies seek will not be achieved if this transfer leaves for another day the job of developing mitigation measures for fish and wildlife, water quality, and air quality impacts whose cost could run into the hundreds of millions of dollars. Looking at the broader water policy implications for California, if transfers are to play an important role in assuring California's future water supply, they must be seen as an efficient, environmentally friendly way to maximize water supplies. Urban water agencies, agricultural communities, and environmental stakeholders will have no desire to imitate this transfer if its legacy is a lifeless Salton Sea and chronic air quality problems in the Imperial and Coachella Valleys.

Given the importance of the issues at stake, both for the environment and the water supply of California, it is critical that this transfer in fact be a model worthy of imitation. Such a model transfer must, of course, fully comply with all environmental laws. A model transfer must maintain inflows to the Salton Sea, so that a restoration plan remains financially and technically feasible. A model transfer must not degrade the air quality of the Imperial and Coachella Valleys, or lead to water

quality problems in drainage waters. A model transfer would address growth-inducing impacts at the point of delivery. Finally, a model transfer must address third-party economic impacts in the area of origin.

Unfortunately, the current proposed water transfer does not meet these standards. In particular, much of the information regarding environmental and economic impacts, which is needed to proceed with the transfer, has not been generated by IID. In order for the transfer to proceed, we need more time—to develop a Salton Sea restoration plan; to model potential air quality impacts under different scenarios, including fallowing; and to develop information on third-party impacts under different scenarios. In an ideal world, the solution would be simple—put off the transfer, develop the needed information, and proceed with the transfer only when all impacts are understood and measures to avoid or mitigate for those impacts are funded and ready for implementation. However, unless a way is found to alter the QSA and Interim Surplus Guidelines, that does not appear to be a viable alternative.

In the interest of moving forward, as part of our efforts before the State Water Resources Control Board, Defenders of Wildlife and our conservation partners have put together a proposal for a temporary, conditional approval of the water transfer, to expire on December 31, 2007. This conditional transfer is similar to the recommendation by the Pacific Institute. The temporary, conditional approval would be contingent on the parties enforceable commitment to implement the following elements:

- The water transferred during the conditional approval period could be generated only by voluntary fallowing of land, such that inflows to the Salton Sea are unaffected by the transfer. Such fallowing would also address farmers' need for financial predictability, and in the initial years of the transfer, the amount of land needed to generate water would be smaller than at peak periods, reducing socio-economic impacts.
- A plan, developed with broad-based community participation, to invest an appropriate percentage of the transfer revenues into a community development fund, to mitigate for the socio-economic impacts in the Imperial Valley. If studies show that the revenue generated by the transfer does not cover third-party impacts, there needs to be a plan to backfill this difference in costs.
- A plan, developed with broad-based community participation, to identify and address the growth-inducing impacts of the transfer within the service area of the San Diego County Water Authority.
- Participation in a process, in conjunction with the Federal and state governments and the Salton Sea Authority and in consultation with a broad range of stakeholders, to develop and implement a long-term restoration plan for the Salton Sea.

The temporary, conditional approval described above is intended to enable California to meet the terms of the Federal Interim Surplus Guidelines, while allowing time to develop reasonable, sustainable mitigation for impacts the transfer may have on fish and wildlife, water quality and the economy of the Imperial Valley. It would avoid environmental impacts on the Salton Sea by holding inflows at the levels the Sea would receive in the transfer's absence, and it would minimize water quality impacts in the drains, air quality impacts, in the Salton Sea Basin, and growth-inducing impacts in San Diego.

In addition, the five-year period would afford a reasonable time to develop the information needed to provide the foundation for a transfer that could truly be a model. The state and Federal Governments would have a reasonable period of time in which to develop a long-term, sustainable restoration plan for the Salton Sea. If such a plan is adopted and ready for implementation, the transfer parties could receive approval for a transfer in which the water could be generated by any method so long as the impact on inflows to the Salton Sea is consistent with the restoration plan. This would create an incentive for the transfer parties to direct their efforts toward encouraging the state and Federal Governments to develop a workable plan. And, there would be time to develop a plan to avoid or mitigate for water and air quality impacts of the transfer, including impacts to IID's drainage system.

IV. PENDING STATE AND FEDERAL LEGISLATION REGARDING THE IID WATER TRANSFER

Even if the water transfer were to proceed with a conditionally-approved transfer, there are still ongoing efforts at both the state and Federal level to have both Congress and the California State Legislature pass bills (e.g., H.R. 2764 (Hunter) and SB 482 (Kuehl)) that would, among other things, find that the proposed transfer satisfies Federal and state environmental statutes, limits judicial review, provides iron-

clad, extraordinary “assurances” to the parties in the water transfer, and removes California’s fully protected species statutes as an obstacle to permit approval.

A. Federal Legislation: H.R. 2764

H.R. 2764, introduced by Representative Duncan Hunter (Imperial County), effectively exempts the water transfer and related actions from the Federal Endangered Species Act (“ESA”), drastically limits the public’s right to judicial review under the ESA and National Environmental Policy Act (“NEPA”), and authorizes funds for unknown “habitat enhancement” projects that appear to do nothing to mitigate impacts from the transfer on species dependent upon the Salton Sea.

B. State Legislation: SB 482

SB 482, introduced by State Senator Sheila Kuehl (Santa Monica), would revise the state water code to allow for long-term fallowing, provide “regulatory assurances” for activities relating to mitigation for the water transfer at the Salton Sea, and would repeal the state fully protected species statute in exchange for some improvements to the California Endangered Species Act (“CESA”). Defenders does not have any objections to the proposed changes to the water code, but has raised objections to the issuance of legislative “assurances” as well as the repeal of the fully protected species statute.

1. SB 482’s Legislative Assurances Language

SB 482 would authorize the Department of Fish and Game (“DFG”) to extend “regulatory assurances” contained in the newly revised Natural Community Conservation Planning (“NCCP”) Act (found in SB 107 (Sher)) to the covered activities described in the Salton Sea Conservation Strategy in the Habitat Conservation Plan for the water transfer. These assurances will be provided as long as the plan will not result in a material increase in salinity at the Sea before an unspecified date, does not significantly impact shoreline habitat and desert pupfish at the Sea, and is consistent with the Salton Sea Reclamation Act. This legislative extension of “regulatory assurances” in state law beyond the NCCP Act to a CESA incidental take permit is “extraordinary” as it has not been required for any other incidental take permit issued under CESA. Indeed, such legislative “assurances” under the Federal ESA have never been granted by Congress for any project. It is bad policy for the state Legislature to begin giving out special “legislative assurances” for specific projects beyond what is already accorded to permittees under current law.

Furthermore, when the majority of the state environmental community agreed to incorporate limited assurances into the NCCP statute (as part of the negotiations on SB 107), it was only after receiving in exchange the following improvements to the NCCP Act: (1) an improved public participation process; (2) an improved scientific review process; (3) strong standards for the NCCP plan and implementing agreement; (4) the requirement that DFG suspend or revoke an NCCP permit if there is jeopardy to a species or an imbalance between conservation and development; (5) specific determinations by DFG for coverage of species under an NCCP; and (6) the requirement that the plan provides for the conservation of a species. SB 482 would grant assurances for a specified set of covered activities within an incidental take permit, issued under CESA, that does not meet these standards. For these reasons, Defenders opposes this grant of assurances in SB 482

2. California’s Fully Protected Species Statutes

The California fully protected species (“FPS”) statutes strictly prohibit the “take” (e.g., killing) of 37 wildlife species, including some of the most beloved symbols of our state: the imperiled sea otter, golden eagle, California brown pelican, and California condor. Unlike CESA, there are no allowances for any take of a FPS species. If the FPS statutes are repealed, then the 37 species would only be protected under CESA, and “take” would be allowed. Advocates for repeal of the FPS statutes argue that these species would be adequately protected under CESA. However, this is not the case. An examination of CESA reveals significant flaws that must be addressed in order to assure that species will be both protected from extinction and subsequently recovered. From a resource conservation point of view, a repeal of the FPS statutes without such assurances is unacceptable.

For more than a year, the environmental community has advocated for four improvements in CESA in exchange for accepting a repeal of the FPS statutes. First, CESA must be amended to clarify that the definition of take includes habitat destruction. Second, CESA must be amended to reinstate an updated version of a previously sunsetted article that required state agencies to consult with the Department of Fish and Game (“DFG”) whenever their projects might affect a listed species or its habitat. It is our understanding that DFG is not reviewing state projects to ensure that they will not impair the recovery of listed species. This is contrary to

long-standing CESA policy that state agencies have a duty to conserve (i.e., recover) listed species and their habitat. Third, CESA must be amended to create a comprehensive recovery program. Currently, CESA has a “pilot” recovery program for five species—only one of which, the Sandhill Crane, has a recovery strategy. An Endangered Species Act that fails to include a requirement for recovery planning is only doing half its job. Finally, CESA must be amended to clarify that listed plants are protected from destructive activities. For a more in-depth discussion of these points, I have attached a January 4, 2002, letter to Senator Kuehl from 26 environmental organizations. (Attachment C).

SB 482 would repeal the FPS statutes in exchange for providing only two of the suggested improvements to CESA—an unfunded recovery program and a less-than-adequate state agency consultation requirement. The refinement of the definition of “take” to include habitat destruction and the inclusion of plants for protection have been omitted from the amended version of this bill. Defenders does not object to the repeal of the FPS statutes, especially in light of the need to proceed with the water transfer. However, we continue to voice our objections to the lack of real improvements to CESA set forth in SB 482 in exchange for a FPS repeal.

C. Is There A Need for Any Federal or State Legislation?

If the IID water transfer were carried out in the manner that Defenders and the Pacific Institute have suggested, there is no need for either Congress or the state legislature to pass bills with environmental sufficiency language or provide regulatory assurances beyond what is already available under current law since the transfer would have a significantly diminished impact on the environment. Of course, there continues to be a need for the state to pass legislation to deal with the state water code and long-term fallowing as well as the state’s fully protected species statutes, and for the Federal and state government to consider legislation that would address the issue of third party impacts should the cost of the transfer exceed the compensation provided by the water agencies.

V. CONCLUSION

Defenders recognizes, in making our suggested proposal, that this transfer is a piece of a historic effort to resolve decades of disputes over Colorado River water. But consider the alternative. The current transfer proposal evokes the specter for some of the darkest chapters in the history of California water policy—from Owens Lake to Kesterson—and the potential for environmental loss at the Salton Sea is of equally historic proportions. We simply ask that this transfer proceed in a manner that is not at the expense of the Salton Sea and its surrounding communities, the environment, and the integrity of our state and Federal environmental laws.

NOTE: Attachments to Ms. Delfino’s statement have been retained in the Committee’s official files.

Mr. CALVERT. Mr. Cohen, Pacific Institute.

**STATEMENT OF MICHAEL COHEN, SENIOR ASSOCIATE,
PACIFIC INSTITUTE**

Mr. COHEN. Thank you, Mr. Chairman, distinguished Federal and State representatives, for the opportunity to testify today. I will briefly summarize my written testimony, which I submit for the record.

Mr. COHEN. Let me start by emphasizing that the Pacific Institute supports the California plan and the objective of reducing the state’s dependence on the Colorado River. It is plainly in the interest of stake holders throughout for Colorado River basin for California to reduce its take of Colorado River water. The challenge comes with insuring that the implementation of the California plan and its various elements do not degrade environmental or human health and wind up costing state and Federal taxpayers more money over the long term to correct problems that could have been avoided today.

The California plan, particularly the proposed transfer of water from Imperial Valley agriculture to metropolitan San Diego, could

cause significant negative impacts to the environment and to human health, and not just within the Imperial Valley. These impacts, some of which have been detailed earlier, include diminishing the availability of water in the Mexicali Valley, and the availability of water for habitat preservation in the Colorado River Delta. It also includes degrading riverline habitat between Parker and Imperial dams. Potentially and something that hasn't been addressed enough to date, is impacts on coastal habitat in the San Diego County Water Authority service area due to growth-inducing impacts. And as several members have mentioned, degrading human health in the Coachella and Imperial valleys due to dust storms from tens of thousands of exposed acres of lake bed. There's also, as just mentioned, potential impacts to degrading fish and wildlife habitat in the Salton Sea, habitat that supports several Federally and state listed endangered species. Additionally something that hasn't been mentioned is increased salinity exposure for subsistence fishermen and, depending on how the transfer is effected, potentially decreasing employment in the Imperial Valley.

Let me spend just a moment on one of these impacts. Both Congresswoman Bono and Mr. Nastri earlier noted possible dust impacts resulting from exposed lake bed. Owens Lake, which was dried up by water transfers, is now the site of mass mitigation efforts to reduce dust emissions and improve the worst air quality in the nation. The cost of these mitigation efforts in Owens Lake could well exceed \$250 million. Unfortunately, as was earlier mentioned, we do not know, we don't have sufficient data as to whether exposed Salton Sea lake bed can become as great an air quality hazard as Owens Lake has proved to be. But the danger I would submit is very great. I suggest that the risk is too hard to perceive until we have a better understanding. To reduce its dependence on the Colorado River, California must reallocate water. But if this transfer generates pervasive human health problems and glaring environments disasters, future reallocation efforts will be dealt a severe blow. Plus the state and Federal Government and potentially the transfer parties will be faced with huge litigation costs.

I would submit that legislative exemptions or waivers to existing environmental protections will do nothing to minimize such a human health disaster. Additionally I would suggest that a legislative approach could pose a considerable risk of deadlock as various groups concerned more about precedent that the Salton Sea could well become involved.

As we have just heard from Kim Delfino and others, time is the greatest challenge here. To address this lack of time and to increase our understanding of the various unknowns, such as dust problems and socioeconomic solutions, I would suggest that a 5-year interim approval of the water transfer could provide the opportunity to address many of the potential impacts at and around the Salton Sea, while still allowing California to meet the requirements of the interim surplus guidelines, California State Water Resources Control Board and the Bureau of Reclamation could grant such an interim approval based on the voluntary—and I would emphasize voluntary—and temporary following of land.

Contingent upon a final approval would be contingent after these 5 years on the following four conditions: One, the development of

a regional economic development plan, which is developed in collaboration with local community groups, farmers, county representatives, and other representatives. I would suggest that many of the current problems that we are faced with here today are a result—a direct result of the closed process that has occurred to date. A previous witness mentioned the problems with the HCP that was developed in conjunction with IID and Federal and state agencies. I would submit that part of the problems that arose is that this was negotiated behind closed doors. Many members of the environmental community requested that they be involved in these discussions so we can come together with a consensus plan. Unfortunately that did not occur.

I would also suggest that full approval after the 5 years be contingent upon the plan to address growth-inducing impacts, and a plan to reduce the concentration of selenium in drainage waters. And finally, the development and implementation of a long-term habitat preservation and dust abatement plan for the Salton Sea.

In closing I would suggest that this temporary conditional approval offers several benefits, one and foremost for the State of California is it avoids suspension of the interim surplus guidelines. Two, it could lead to a plan that minimizes impacts to the environment and human health. Three, it would provide time, time that we desperately need to develop a better understanding of some of these potential impacts.

I would also note that during the interim period that the amount of land fallowed could be quite small. And finally it would minimize the time pressures that currently characterize the discussions. I'll look forward to working the water agencies and other interested parties to develop a mutually agreeable plan. Thank you.

[The prepared statement of Mr. Cohen follows:]

Statement of Michael J. Cohen, Senior Associate of the Pacific Institute for Studies in Development, Environment, and Security

Mr. Chairman and members of the Committee, thank you for the opportunity to testify today. My name is Michael Cohen. I am a Senior Associate with the Pacific Institute for Studies in Development, Environment, and Security. The Pacific Institute is an independent, non-partisan, non-profit center with offices in Oakland, California and Boulder, Colorado, created in 1987 to conduct research and policy analysis in the areas of environment, sustainable development, and international security. The Institute has studied Colorado River issues for more than a decade, beginning with early research on the potential impacts of climate change on Colorado River flows, through our 1996 report entitled *The Sustainable Use of Water in the Lower Colorado River Basin*. In 1999, I was the lead author of the Institute's *Haven or Hazard: The Ecology and Future of the Salton Sea* (now posted at www.pacinst.org/salton—sea.html), and last fall I was the lead author of the Institute's *Missing Water: the Uses and Flows of Water in the Colorado River Border Region* (posted at www.pacinst.org/missing—water.htm). As noted on the attached resume, I have also been the author or co-author of several peer-reviewed articles on the Salton Sea and lower Colorado River, and have presented on these topics at numerous professional conferences and workshops.

The Institute works extensively on California water policy issues and provides analysis and policy recommendations to State, Federal, and local policymakers. To this end, I prepared the Institute's comments on the Salton Sea Restoration Project draft EIR/EIS, on the Colorado River Interim Surplus Criteria draft and final EIR/EIS, and on the recent IID water conservation and transfer project draft EIR/EIS. I crafted the Institute's Proposal to Preserve and Enhance Habitat at the Salton Sea, the only independent proposal to be reviewed by the Salton Sea Science Office. I also participated in California's State Water Resources Control Board policy hearing on the IID—San Diego County Water Authority water transfer.

My testimony today addresses two main points: the challenges associated with the implementation of California's Colorado River Water Use Plan, and opportunities for minimizing economic and environmental disruptions caused by the implementation of the plan and connected Federal actions, such as the Interim Surplus Guidelines (ISG), Implementation Agreement, and the Inadvertent Overrun Program. These opportunities arise from the considerable flexibility that exists under current law to meet the requirements of the ISG while a voluntary, consensus-based long-term plan is developed and implemented.

Let me emphasize here that the Pacific Institute supports the California Plan and the objective of reducing the state's dependence on the Colorado River. It is plainly in the interests of stakeholders throughout the basin for California to reduce its take of Colorado River water. Doing so will increase the reliability and predictability of future supplies on the river, benefiting recognized users as well as facilitating efforts to preserve and enhance environmental values within the basin. The Pacific Institute recognizes the importance of reducing California's use, which is why we have developed a series of proposals to facilitate the California Plan without imposing the costs of implementation on the environment or third parties.

The challenge comes in ensuring that the implementation of the California Plan and its various components do not degrade environmental or human health, and wind up costing state and Federal taxpayers more money over the long term to correct problems that could have been avoided today. The California Plan, and particularly the proposed transfer of water from Imperial Valley agriculture to metro San Diego, could cause significant negative impacts to the environment and to human health. These impacts would be manifested most dramatically at the Salton Sea, but could also occur within the remnant Colorado River delta, and potentially in the San Diego County Water Authority (SDCWA) service district, and along the reach of the Colorado River from Parker Dam to Imperial Reservoir.

The looming threat that the failure to execute the Quantification Settlement Agreement (QSA) by December 31 will trigger the suspension of the Colorado River interim surplus guidelines, reducing deliveries of Colorado River water to California by 800,000 acre-feet or more, may outweigh the multiple threats to environmental and human health of proceeding with the water transfer. This is the argument promoted by advocates of the water transfer. Whether the Secretary would suspend the guidelines and impose such economic disruption on the state of California and the nation as a whole is an open question. What is more evident is that California's failure to execute the QSA by the end of this year would be interpreted by the other Colorado River basin states as a demonstration of bad faith, and could well signal a marked step backward from the remarkable cooperation and communication among the basin states in the past several years.

Regrettably, this level of cooperation and communication did not extend beyond the basin states and the four water agencies that drafted the California Plan, to other stakeholders. Had it done so, I suspect that we would not be faced with range of challenges that confront us today. Instead, we are now faced with the challenge of identifying a means of implementing the California Plan in the least disruptive manner. By least disruptive, I mean with the minimal impact on the ground, be that measurable impacts to fish and wildlife, or exposure of Salton Sea lakebed, or loss of jobs. I do not believe that legislative exemptions or waivers to existing protections could be enacted quickly or easily, or without broad disruption. Efforts to enact a legislative fix, to facilitate the implementation of the California Plan, would likely be contested by a broad range of interests, interests that likely would not otherwise involve themselves. Given the pressures of time, such a course of action poses considerable risks.

What is really needed is more time, time to address the complex challenges created by in part by the water agencies' decision to exclude most of the stakeholders from the development of the California Plan. Time to address the various challenges described in the following could be generated if the State Water Resources Control Board, the Bureau of Reclamation, and the water agencies themselves, agreed to a five year, conditional approval of the proposed water conservation and transfer project.

The environmental documentation prepared for the proposed water transfer fails to adequately describe, much less offer sufficient mitigation for, the various environmental and human health impacts likely to result from the water transfer. Part of the challenge and opportunity is that the means by which water will be conserved in the Imperial Valley has yet to be determined. This uncertainty provides an opportunity to implement an interim plan, while a mutually-agreeable long-term plan to minimize the impacts to environmental and human health is developed. To avoid the suspension of the Interim Surplus Guidelines and the economic disruption that would cause, the proposed water transfer could be granted a temporary, conditional

approval, contingent upon the development and implementation of economic development, habitat preservation, and dust abatement plans.

Such a temporary, conditional approval offers several benefits. Perhaps the most salient of these is that such an approach would not require Federal legislation, and likely would not require state legislation, either. Avoiding the challenge of crafting ESA-exemption, or ESA-sufficiency, language would markedly improve the prospects of any such plan, by minimizing the likelihood that a broad range of organizations would intervene due to the precedent, rather than the substance, of such legislation. Our common goal of minimizing the challenges to the implementation of the California Plan, and the dramatic economic disruptions such challenges could cause, could be realized by minimizing the extent and scope of any state and Federal facilitating legislation required.

The implementation of the California Plan and its various components pose a range of challenges, described below. Regrettably, the costs of the plan would be borne disproportionately by the environment and by poor communities, while the benefits would accrue largely to the wealthy southern California coastal plain. Although it is clear that avoiding the suspension of the Interim Surplus Guidelines is in the general interest of Californians, it is not clear that the costs of avoiding that suspension should fall as they do, especially when viable alternatives exist. In the following I describe some of these costs and challenges.

Impacts on Mexico and the Colorado River delta

The lining of the All-American Canal, funded by the State of California to promote the QSA, would conserve 67.7 KAF/year of water otherwise lost to seepage, generating 56.2 KAF/year for the Metropolitan Water District of Southern California (MWD) and 11.5 KAF/year as partial settlement for the San Luis Rey tribe. Currently, this seepage water follows a groundwater gradient into the northern Mexicali Valley in Mexico, where it is pumped by irrigators to supplement Colorado River supplies. The loss of seepage water will place additional pressure on existing supplies, reducing the availability of such water for re-allocation for environmental purposes within the delta region.

Interim surplus criteria, properly mitigated, could have been a reasonable means of facilitating the implementation of plans and projects to reduce California's use of Colorado River water. Unfortunately, the Department of the Interior ignored a set of criteria that would have minimized environmental impacts, instead choosing a set of Interim Surplus Guidelines that will reduce the frequency and magnitude of flows below Morelos Dam (considered the upstream extent of the mainstream portion of the Colorado River delta). The Interim Surplus Criteria DEIS indicates that, in the year 2015, the chosen alternative will reduce the probability of flood flows reaching the delta by more than 16 percent. The reduced frequency of flood flows could degrade habitat in the area, subsequently impacting the species that depend on this habitat.

Impacts to the Lower Colorado River, Parker to Imperial Dams

The cumulative impact of actions undertaken under the QSA and connected Federal actions could reduce annual flows from Parker to Imperial Dams by 400 kaf/year, or more. If not managed properly through re-operation of Parker Dam, Reclamation estimates that this reduction in flow could decrease the surface extent of open water in the main channel by 35 acres, by 17 acres in backwaters, and decrease the extent of emergent vegetation in backwaters by 28 acres. Additionally, the elevation of the adjacent alluvial aquifer could drop by more than 1/3 of a foot, potentially below the root zone of native riparian vegetation, further degrading a scarce habitat. To minimize these avoidable impacts, Reclamation could maintain current maximum instantaneous releases from Parker Dam and decrease the rate of minimum releases, thereby ensuring that backwaters continue to receive water at current rates, and also reducing impacts to power generation.

Growth-inducing Impacts at the Point of Delivery

The re-allocation of water under the QSA, from Imperial Valley to metro San Diego and to the Coachella Valley and/or MWD, could have growth-inducing impacts in these areas. The water transfer DEIS recognizes that the transfer would increase deliveries of Colorado River water to the Coachella Valley, yet dismisses the potential for growth-inducing impacts there and at the other points of delivery by claiming that the transfer does not create new water. Rather, the DEIS claims that the transferred water would merely offset groundwater pumping, or would result in the same blend of water currently received. This is false.

The adoption of SB 221 in October 2001 changed California's statutory climate, clarifying the transfer's growth-inducing impacts at the points of delivery. SB 221 prohibits approval of new developments of at least 500 units, unless the applicable

public water system verifies that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will be (including transferred water), available prior to completion of the project. A 1999 IID newsletter specifically notes this objective: "The proposed Project is designed to 3) provide SDCWA with a reliable, long-term and cost effective water supply to provide drought protection and to accommodate current and projected demands for municipal and agricultural water."

San Diego County and the Coachella Valley have experienced high growth rates in the past decade, causing the loss of coastal sage scrub and desert bighorn sheep habitat, among other impacts. The re-allocation of water under the QSA would satisfy SB 221's requirement that large new developments demonstrate a reliable supply of water, meaning that the QSA will exacerbate the high growth rate at the points of delivery. Yet the recent NEPA/CEQA environmental documentation fails to recognize the potential for growth-inducing impacts arising from this re-allocation of water, much less provide appropriate mitigation for these impacts.

The Water Transfer and the Salton Sea

Depending on how water is conserved for the proposed transfer, inflows to the Salton Sea could be reduced as much as one-for-one. Agricultural drainage sustains the Salton Sea; reducing that drainage will cause the Sea's salinity to spike and will reduce the Sea's extent, exposing lakebed, stranding existing shoreline habitat, and exposing land bridges to avian rookeries.

The Salton Sea provides a host of ecological values that are important not only within the Imperial and Coachella valleys but also throughout the length of the Pacific Flyway. Although the Salton Sea is a product of human activity, the Sea and its environs provide a complex mosaic of habitats, ranging from open water, estuaries, and salt marsh to mud flats and riparian corridors. Agricultural drainage, rich in fertilizer, supports tremendous biologic productivity at the Sea, including tens of millions of non-native fish. These resources support more than 400 species of birds and a variety of other wildlife, including state and Federally listed species such as the Southwestern willow flycatcher, Greater sandhill crane*, California black rail*, brown pelican*, California least tern*, California and least Bell's vireos, Yuma clapper rail, and the desert pupfish. These habitats are especially vital given the destruction of wetlands throughout most of southern California and the lower San Joaquin Valley and within the Colorado River delta itself.

Agricultural drainage adds some four million tons of salt to the Salton Sea each year. Without some method of removing such salts, the salinity of the Sea will gradually increase over time, eventually exceeding the tolerance of fish and many of the invertebrates that currently thrive there, most notably pileworms. Although the salinity tolerance of tilapia (the most numerous fish in the Sea) is not known definitively, researchers project that their salinity tolerance would be exceeded at the Sea within forty years, assuming inflows remain relatively constant. Actions associated with the QSA, most notably the water transfer, could markedly reduce inflows to the Sea, causing salinity to spike beyond fish tolerance within as little as ten years. Pileworm salinity tolerance would likely be exceeded within several years thereafter. The rapid loss of most of the fish and macro-invertebrate species from the existing food chain would dramatically limit food availability for many of the birds that currently use the Sea. Given the loss of more than 90% of California's pre-development wetlands, it is not clear what other resources along the Pacific Flyway these birds might use.

The rapid transition from the current fish-supporting habitat to a hyper-saline, non-fish-supporting habitat in some respects represents an acceleration of current trends (though it is unclear whether the existing fishery would be able to tolerate such rapidly changing conditions as readily as it has tolerated the gradual change generated by constant inflows). The reduction in inflows to the Sea would also generate a change in kind, dropping the elevation of the Sea by as much as 19 feet and exposing some 105 square miles of existing lakebed. Currently, double-crested cormorants nest in large numbers on islands within the Sea, where nesting by endangered brown pelicans has also been reported. Dropping the elevation of the Sea would connect these islands, and other valuable snag habitat, to the mainland, exposing the birds to predation by land-based carnivores and leading to the abandonment of such sites. Nor is it clear that the exposed lakebed would provide habitat similar to existing shoreline and mudflat habitat, as the exposed lakebed would likely be covered by a layer of salt, diminishing its habitat value. Such exposed lakebed would also be a new source of windblown emissions, in a region that already exceeds airborne contaminant thresholds.

The proposed water transfer could expose 50,000 acres of Salton Sea lakebed (more than 78 square miles), more than the emissive surface at Owens Lake, where

the exposure of more than 60 square miles of lakebed has led to the largest dust storms in the U.S. Owens lakebed emits as much as 290,000 tons of PM10 annually, degrading human health in the region. Even if Salton Sea lakebed were only 1% as emissive as that of Owens lakebed, emissions would still exceed Federal standards. Mitigation efforts have recently begun at Owens Lake, to address the dust emissions that plague human health in the region. The costs of such efforts may exceed \$250 million. Depending on wind direction, speed, and duration, fugitive dust emissions could be carried from exposed Salton Sea lakebed southeast, into populated areas of the Imperial Valley, or northwest, into Coachella Valley communities such as Indio, here in La Quinta, and as far north as Palm Springs. The cost of limiting such dust emissions were not estimated by the water transfer DEIS, but it is reasonable to assume that they could equal or exceed the costs of efforts at Owens Lake. It unclear who would pay such costs.

Particularly in Imperial County, the environmental effects, including the potential for a dramatically increased exposure to airborne emissions and consequent health effects, would be borne in large measure by poor and minority populations. Additionally, these populations consume fish caught from the Salton Sea and tributaries. The proposed project could increase selenium concentrations in such fish, and eventually eliminate fish from the Salton Sea entirely, disproportionately affecting poor and minority populations. The benefits from the transfer would be realized most directly within the San Diego County Water Authority service area, and potentially by landowners within the Imperial Valley (IID has yet to determine how transfer-generated revenues will be distributed, and to date IID has made little commitment to ensuring that those whose jobs are displaced by the transfer are compensated).

Solutions

Water transfer proponents offer two alternatives to minimize the transfer's impacts on the Sea: fallowing land in the Imperial Valley, or building a fish hatchery and 5,000 acres of feeding ponds (at a cost exceeding \$100 million). Fallowing could provide a short-term remedy, as a long-term plan is refined and implemented, but Imperial Valley resident have made clear their opposition to fallowing the 75,000 90,000 acres that would be required to free up sufficient water for the transfer and maintenance of the Sea. The water transfer DEIS only describes feeding ponds in generalized, conceptual terms, precluding a reasonable assessment of their merits. Even so, 5,000 acres of feeding ponds are unlikely to provide any meaningful substitute for the loss of more than 240,000 acres of existing surface water at the Sea.

Limited state and Federal budgets suggest that mitigation for the water transfer should be rolled into a long-term habitat preservation plan for the Sea. It is unlikely that the legislature will appropriate \$100+ million now for a stop-gap plan, and then appropriate another \$400+ million in several years, for a long-term plan. Nor is it clear that the political will exists to authorize and appropriate the estimated \$1.5 Billion required to maintain the Sea at its current elevation and salinity, especially since such a plan would require aggressive intervention, in perpetuity.

A more reasonable approach would be to implement a sustainable plan for the Salton Sea, both as mitigation for the water transfer and as a long-term solution. A sustainable plan recognizes that inflows to the Sea will decrease over time, and so focuses on preserving the fishery and shoreline of a portion of the Sea, rather than the Sea as a whole. Several such plans have been proposed, ranging from a "tri-delta approach," to the Pacific Institute plan that would impound roughly 10% of the Sea, to building a dike across the Sea's waist, stabilizing salinity and elevation in the southern half. The goal of each of these plans is to create a flow-through system, where the elevation and salinity of a part of the Sea could be stabilized, while the remaining portion of the Sea would transition to a hyper-saline, invertebrate-rich system akin to Mono or the Great Salt Lake. In conjunction with other planned and proposed efforts such as treatment wetlands and fertilizer management such a limited approach could facilitate the water transfer while preserving and enhancing the Sea's ecological values over the long term.

Who Pays?

The costs of mitigating the environmental impacts of re-allocating water within California vary from the limited expense of the re-operation of Parker Dam, to the billions of dollars potentially required to address the loss of most of the Salton Sea and the resultant dust-storms that could plague much of the area. The water transfer agreement seeks to externalize the environmental costs of re-allocating water, by limiting IID's contribution to \$30 million total for the 75-year life of the agreement; SDCWA's contribution is expected to be even less. By arbitrarily capping their environmental contribution, the parties ignore the true costs of re-allocating water. Presumably, the parties expect state and Federal taxpayers to cover the remaining

costs, representing an exorbitant subsidy for a purportedly market-based transaction.

Nonetheless, state and Federal interests exist in facilitating California's reduced dependence on Colorado River water. Additionally, the existence of listed species at impacted areas merits state and Federal contributions. Combining a reasonable contribution from the QSA and transfer parties with state and Federal monies would represent an equitable and reasonable approach to funding actions to minimize the environmental impacts of actions taken under the QSA.

Opportunities

For the Salton Sea, site of the most dramatic and costly of these impacts, such contributions could come in the form of a combined mitigation/long-term habitat preservation and enhancement effort. To provide sufficient time for development and review of such a combined effort, the water transfer could proceed along the lines of the proposal submitted by the Imperial County Farm Bureau, wherein Imperial Valley farmers would temporarily fallow land for the first several years of the transfer agreement, as IID collects sufficient revenue to underwrite the costs of implementing on-farm conservation measures. Such temporary fallowing would reduce impacts to the Salton Sea, while addressing farmers' needs for financial predictability. This interim period would also provide time for the development and implementation of a long-term habitat preservation and dust abatement plan for the Salton Sea.

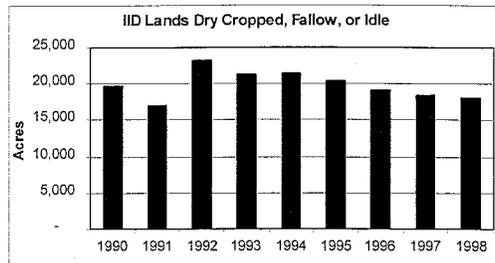
California's State Water Resources Control Board and the Bureau of Reclamation could grant a temporary, conditional approval of the proposed water transfer, contingent upon the parties' enforceable commitment to implement the following terms:

- To minimize environmental impacts, the water transferred during the period of approval could only be generated by the voluntary, temporary fallowing of land. Such temporary fallowing would limit impacts to the Salton Sea, while addressing farmers' needs for financial predictability. In the initial years of the transfer, as the volume of transferred water ramps up, the amount of land needed to generate the water would be smaller than at peak periods, reducing socio-economic impacts.
- A plan to invest an appropriate percentage of the transfer revenues into a community development fund, to mitigate for the socio-economic impacts at the area of origin. The size and distribution of the fund would be determined in consultation with a broad range of local community organizations.
- A plan to identify and address the growth-inducing impacts of the transfer at the point of delivery, with broad-based community participation.
- A plan to reduce the concentration of selenium in drainage waters, by one or more of: wetland management programs, targeted efforts at disproportionately high sources of selenium within the Imperial Valley, and/or support for Upper Colorado River Basin selenium source reduction programs..
- The development and implementation of a long-term habitat preservation and dust abatement plan for the Salton Sea, generated in consultation with a broad range of stakeholders and overseen by the Salton Sea Authority, in consultation with the Salton Sea Science Office.

The temporary, conditional approval would expire on December 31, 2007. If by that date each of the above elements were implemented satisfactorily, the State Board and the Bureau of Reclamation would grant an unconditional approval of the proposed action.

Such a temporary, conditional approval would minimize the environmental impacts of the transfer, by providing for a method that would have limited impact on inflows to the Salton Sea and by denying the long-term supply reliability required to approve large new developments. Additionally, the five-year interim period would afford a reasonable amount of time to develop a long-term habitat preservation and dust abatement plan for the Salton Sea. By making final approval of the transfer contingent upon the implementation of such a plan, the transfer parties would be encouraged to direct their efforts toward securing the authorization and appropriations necessary. This approach would enable California to meet the terms of the Interim Surplus Guidelines, while affording time to develop reasonable mitigation.

As displayed in the following graph, farmers in the Imperial Valley regularly fallow nearly 20,000 acres of land per year, representing roughly 4.1% of the total land in production. The least productive farmland, in terms of jobs and total revenues produced, also tends to be the most-water intensive, using five to six acre-feet/acre.



A Long-term Habitat Preservation Plan

In October 2001, the Pacific Institute submitted to the Salton Sea Authority a "Proposal to Preserve and Enhance Habitat at the Salton Sea" (posted online at www.pacinst.org/salton-sea.html). This proposal calls for the construction of dikes or other impoundment structures at the north and south ends of the Salton Sea, creating flow-through systems in these impounded areas to limit salinity. To address nutrient loading and to enhance habitat in the major tributaries, the proposal also calls for the construction of wetlands along the New and Alamo rivers. Desert Wildlife Unlimited is already in the process of constructing wetlands in these areas.

The Pacific Institute proposal is the only outside proposal to be reviewed by experts convened by the Salton Sea Science Office. A synthesis report of this expert review will be distributed by the Science Office in the near future. This report identifies several concerns about the proposal, including problems with the construction of the impoundment structures, potential selenium concentrations in excess of regulatory standards, change in flora and fauna and potential for increased problems associated with eutrophication, and potential for increased disease transmission. It should be noted that this is an iterative process, and that future revisions will incorporate comments and suggestions from outside experts in an effort to develop a habitat preservation plan that is compatible with a broad range of inflows.

The objective of the proposed diking alternative is a project that is sustainable over the long term, preserves and enhances ecological values and promotes recreational and economic development opportunities, while being compatible with water re-allocation efforts and other actions that could reduce inflows to the Sea. If implemented, such a plan could result in a southern impoundment with a variety of recreational opportunities, including fishing, duck hunting, and bird-watching, across a huge expanse of open water. Shoreline habitat would be preserved; the estuarine conditions could promote increased productivity and support a greater diversity of marine species, linking to vibrant riparian corridors and wetland habitats in the Alamo and New rivers. The northern impounded area could support similar diversity, or could be managed to stabilize at a different salinity, potentially sustaining a different array of species. The central portion of the Sea could transition to a water body with a productive invertebrate system, feeding a host of other waterbirds.

Such a limited approach would satisfy a narrow interpretation of the stated goals of the Salton Sea Restoration Project and the Reclamation Act, though it would not address the condition of the Sea as a whole. Yet such a limited approach, if implemented in conjunction with efforts to limit inflows of nutrients and selenium, could preserve a significant amount of avian habitat and promote recreational and economic development in the immediate area.

Conclusion

The re-allocation of water throughout southern California would have significant environmental impacts, ranging from loss of habitat for listed species, to increased fugitive dust emissions from exposed lakebed, to growth-inducing impacts at the various points of delivery. Yet rather than proposing actions to minimize these impacts, environmental compliance documentation to date ignores or downplays these impacts. Viable solutions exist, ranging from dam re-operation to diking options at the Salton Sea, but the political will to implement such actions has yet to be demonstrated.

The general objectives of the QSA and connected Federal actions enjoy widespread support. Yet, like many actions and agreements within the Law of the River, environmental interests are relegated to a far distant corner, shrouded by a strident appeal to the broader objective of reducing California's dependence on the Colorado River. Water agencies, state and Federal officials, and editorial boards cite with

alarm the impending deadlines and the threat of sharp and dramatic reductions in water availability for southern California, should the QSA be delayed due to state and Federal environmental compliance requirements. That the QSA proponents have had several years to address the well-known environmental impacts of their actions regularly escapes notice.

Unfortunately, time to address the various impacts to environmental and human health that could be caused by the implementation of the California Plan does not exist. To address this time constraint and to avoid the suspension of the Interim Surplus Guidelines, the Bureau of Reclamation and the State Water Resources Control Board, as well as the four water agencies, could agree to a temporary approval of the IID-SDCWA water transfer, contingent upon the transferred water being generated by voluntary fallowing. Unconditional approval of the transfer would require the water agencies to commit to the development and implementation, in consultation with stakeholders, of an economic development plan for the Imperial Valley, a long-term habitat preservation plan for the Salton Sea, a dust abatement plan, a plan to address growth-inducing impacts, and a plan to address selenium.

Mr. CALVERT. Thank you.

Senator Costa needs to catch a plane so I'm going to let him start off the questions.

Mr. COSTA. Thank you very much, Mr. Chairman. Once again I want to commend you as the Chairman of the Subcommittee, and your colleagues, Congressmembers Bono and Duncan Hunter, for your hard work on this matter. And I know that Assemblymember Kelly and I will do everything we possibly can in the ensuing months to collaborate and to cooperate in ways that we can cross the finish line in a successful state-Federal collaboration. It has been a pleasure to be here today and to listen to the testimony.

I have just one question that I want to make a point with, and I could ask any three of you, but Ms. Delfino, I was impressed by your passion of protecting the Pacific flyway and the importance that the Salton Sea has. And so I just wanted to ask you, do you think that Mono Lake is an important part of that Pacific flyway and an important habitat for the avian population?

Ms. DELFINO. Well, my understanding of Mono Lake, it is important for a particular species like gulls, and it does—

Mr. COSTA. But it's vibrant, it—since we've continued the water flow in there we've been able to maintain and stabilize the level of the lake and it provides a lot of nutrients for the bird population there, is that correct?

Ms. DELFINO. Yeah, my understanding is—and I'm not an expert on the lake by any stretch—but recent studies have shown that ecological conditions at Mono Lake have improved significantly with the increased flow.

Mr. COSTA. And the Great Salt Lake, I understand, also provides a significant basis for avian population throughout the western states and plays a significant role as well, and is considered a vibrant resource for habitat as well, is my understanding.

Ms. DELFINO. It is for nonfish-eating birds, yes.

Mr. COSTA. Right. Right. You know, we're all going to try as best we can to maintain the Salton Sea as we can. I just think I want to caution all of us not to—we get—we get ourselves defined in certain categories. And I think it makes it difficult to solve problems.

The Salton Sea currently is at 44,600 plus, around that, total dissolved solids; is that correct? My understanding is that Mono Lake is over 80,000 parts per million dissolved solids. Great Salt Lake is over 200,000. Great Salt Lake is eight times more saline than

the Salton Sea. I just think it—we make a terrible mistake to define arbitrarily what is a vital resource of a habitat for wildlife by making these, you know, concrete, in-stone definitions.

I agree with you, more time and study is necessary to do the research to figure this out. And certainly Congressman Hunter offered a number of different suggestions. And I'm sure there are others out there. But if our experience teaches us anything, in lakes that are saline, far more saline than the Salton Sea, here in our own country that are very widely used—I can tell you that I used to represent part of Mono Lake, it is a tourist attraction. It is widely used. At 80,000 parts total dissolved solids—I mean, it supports a whole host of efforts. The Great Salt Lake is a great tourism industry that is still supported around there and its great habitat. Trying to get ourselves in arbitrary positions as to define in some point in time as to how we can continue to maintain a Salton Sea as a source of habitat, as a source of recreation, at some arbitrary level based upon other experiences, I think, makes no sense. It makes no more sense to try to define that at some point in time historically the lake represented a certain amount of flow. Certainly it did. I loved the presentation of this that you put forward. I mean, it gives an interesting historical background over a thousand-plus years, even further than that, going back to pre-historic times.

The lake has changed and will continue to change. And I don't think that any of us have the power of God to say at some point in time that this is the way we want it to be. I guess we can, and if we have unlimited dollars we can go ahead and make that determination. But the fact is that all these other experiences have told us that these conditions change and there are adjustments. And I think we have to show at least some flexibility when we're looking at solutions to the Salton Sea.

Mr. KIRK. May I respond, Mr. Chairman?

Mr. COSTA. Certainly.

Mr. KIRK. I think those comparisons are in many ways helpful, and sometimes they're helpful for air quality, sometimes they're helpful for biological diversity. We have to be careful about going too far with that, in that the Salton Sea is not only host to millions of birds but many species of birds. Mono Lake and the Great Salt Lake don't compare in terms of the number of species of birds until, at the Great Salt Lake, you add in the Bear River Marshes, which is a fresh water system with fish. And that's the kicker here along with the vibrant community which supports the fishery. We just have, frankly, incredible diversity of birds and numbers of birds. I'm actually going to take you back in history, but not too far, probably not within your district. The Salton Sea has a lot more, probably, to do with Tulare Lake than it does Mono or Owens Lake. And with development in the Central Valley and with 95 percent of the historic wetlands gone in California, the Salton Sea has reached a point in its history where it's probably the most important stop along the Pacific flyway, much like Tulare Lake used to be.

Mr. COSTA. I know, and if you could provide me some of this mitigation money, I'm sure that some of the farmers of Tulare Lake

would like to cash out and restore part of that lake, and then we can help kill two birds with one stone. No pun intended.

Mr. KIRK. Sounds like a deal.

Mr. CALVERT. Thank you, Senator, for your attendance today. I want to thank you for all the hard work that you've been putting into not just this issue but CALFED, another little issue we've been trying to deal with hopefully by the end of summer. So safe travels and we'll talk to you soon.

I'd like to ask a couple of questions, and when I've been involved in, obviously, water issues throughout the Western United States and throughout the country, for that matter, and the issues of water transfers continues to come up. As a matter of fact, my friend Tom Raff, with the environmental defense fund, is beating me over the head saying, Ken, we don't need to build a lot of water structures in the State of California. Obviously we disagree. But nonetheless his perspective is that we can do this with water transfers. Certainly in the Central Valley we've been talking about transfers. We've been talking about water transfers in the Palo Verde Valley, and certainly the grand-daddy of all water transfers here in Imperial County.

And so some of the major environmental communities, they want these water transfers to occur. And yet I have yet to see one water transfer where the environmental community doesn't file suit against it. Is there any water transfer you're for?

Ms. DELFINO. Well, that's kind of a loaded question, isn't it? I think the point is that—and I can't speak for the organizations that have filed lawsuits on water transfers, but just speaking from experience working with the environmental community and in the environmental community, I don't think that—and from my organization's perspective, looking at this water transfer, we're not opposed to water transfers per se. We just want to make sure that water transfers proceed in a way that are consistent—

Mr. CALVERT. Well, just to carry that on, you had a list of things that you wanted to have studied, and time, of course, something which we don't have, but nevertheless, time to look at this. And one of those issues was with growth inducement. Well, you know, I mean, if you're going to do a water transfer on an urban community it's to serve the need of the urban community. By definition that's to take care of its increased growth. So do you—by that definition, having growth inducement as a part of your argument, would you ever be for a water transfer?

Ms. DELFINO. Well, I think that we weren't saying that we opposed because of the growth-inducing impact. I think we were just saying that there needs to be proper analysis and mitigation for the growth-inducing impacts.

Mr. CALVERT. When you say mitigation, what do you mean by mitigation for growth-inducing?

Ms. DELFINO. Well, I guess it would depend on what the impacts would be.

Mr. CALVERT. If it's more housing, if there is more transportation needs, are you saying that all of that goes into the process in which you come along as far as growth inducement? Are there other issues outside of just water?

Ms. DELFINO. Well, for example, with this current water transfer—and the organization that has really been taking the lead on the growth-inducing impacts issue has been mainly the National Wildlife Federation. And their argument and I think what they've been asking for is, first of all, they don't think there was really any analysis in the environmental documents. And if they are looking for mitigation, I think it might be for money to fund habitat acquisition as part of the San Diego multispecies habitat conservation plan. So you know, I don't know if my colleague Mr. Cohen wants to add to that.

Mr. CALVERT. That's something I'm used to hearing. If in fact the water transfer took place, maybe your organization would want additional money to buy land for wildlife preservation and so forth.

Mr. COHEN. Much of the transfer is being touted as a market-based transfer. But what we're seeing is a lot of the costs are being externalized. Potentially dust mitigation should be borne by the state Federal taxpayers. This isn't market-based transfer. One would assume that many of these costs should be borne by the transfer parties. Similar with growth-inducing impacts in San Diego. We've asked that San Diego come and discuss what some of these impacts could be, what a real growth development plan could be. So there is some discussion about what habitat needs are, how growth is going to be planned in the San Diego County water service area, and how growth could be best managed so that habitat needs are met.

Mr. CALVERT. For the record, Mr. Cohen, if I heard you correctly, you just said that the costs for a market-based water transfer, that the cost of that transfer should be borne by those who benefit from that transfer. In this case the farmers are paying for those costs, those third-party liabilities which we've been hearing about, and if that's unlimited, why would a water transfer ever take place?

Mr. COHEN. I'm suggesting that perhaps it's not really a market-based transfer, and that when we're discussing it as exclusively a market-based transfer, that in fact it's not. And if it is in fact being subsidized, as it is, by \$200 million plus from the State of California and potentially hundreds of millions of dollars from the Federal Government, then there is a larger responsibility from a state and Federal to meet the needs of the state and Federal taxpayers to address some of these larger concerns.

Mr. CALVERT. So what you're saying is we would keep these people on the hook—you want to keep those folks on the hook, is that an accurate statement?

Mr. COHEN. Perhaps I misspoke. If there is a larger state and Federal interest in this, which I would suggest that there is, and would also say that there is environmental interests that have been expressed by the voters to have habitat protected, to have species protected, and because of that some of these other issues should be addressed as well. I certainly would not suggest that transfers should never occur, because some of these costs could be huge, as you rightly point out.

But I think because there is this state and Federal nexus in these broader issues, that we should be addressing these broader environmental questions.

Mr. CALVERT. Thank you. Ms. Bono?

Mrs. BONO. Thank you, Mr. Chairman.

First of all, to my colleague, Duncan Hunter, a while back you were talking—you said if we had a convenient hearing in Coachella Valley, and it was for folks, once they heard about losing water, how many people would actually turn out for it. But I would speculate that the number of people in the room would double if they wanted to come out and talk about the stench from the Salton Sea. Because that is something that they live with. And we have it recurrently. And I can almost guarantee you that a lot more people would turn out for that hearing.

So anyway with that, I'd also like to ask Tom Kirk about this aquifer that we're just now hearing about for the first time. I've heard the Lawrence Livermore proposal that there might be water underneath the canals and this for the first time today that there might actually be an aquifer underneath the Salton Sea. Can you comment on that?

Mr. KIRK. I can. First by thanking both Congressman Hunter and Lawrence Livermore for taking a fresh perspective at Salton Sea solutions, and much of their report supports much of what we're doing or what we would like to do, pull salt out of the sea, look at desalination.

The new nugget of information, as you point out, Congresswoman, is this idea of a lot of perhaps fresher water, not necessarily potable water, that could be available to be put in the Salton Sea. And our initial discussions with Bureau of Reclamation, geohydrologists and others, the idea of a massive aquifer under the Salton Sea may be the case. The next question is can you get it. And the sediment layers under the Salton Sea could be 10,000, 15,000 feet thick, and very compact, as you can imagine. Lots of clays. I think the challenge would be in your pumping rates, if you pump that water out, you're probably talking about a thousand or two thousand or three thousand pumps to try to pump that water out. I think where Lawrence Livermore is headed—and I certainly support them doing so—is the idea of looking at the East Mesa, a little closer to the All American Canal and, unfortunately, a little closer to Mexico. Their water is available, and pumping rates would be much higher. And as was pointed out by the assistant secretary, the Authority, Lawrence Livermore, and the Bureau, are taking a hard look at that perhaps opportunity. Just because the water is there, as we've learned in California history, it's one thing to say it's there, it's another thing to get it. And we're going to take a look at that issue as well.

Mrs. BONO. Thank you. Also in Congressman Hunter's legislation now we're looking at adding a proposal to include ground cover for the exposed shoreline. Is that something that's doable?

Mr. KIRK. My short answer is, I don't know. I guess we could take a hard look at it. When you look at the amount of ground and where it's located, I think that would be your challenge. On the south part of the Salton Sea where you do have again water flows coming in from the Imperial Valley, that might be possible. And listening to—I had a short discussion about this with EPA just before we got started, and they point out that, yes, perhaps it's possible. But a hundred thousand acres or whatever number of acres that's exposed would be a heck of a challenge, getting that water there

would be a heck of a challenge, and growing crops on land that's had major salinity deposition and salinity on top of it is a huge reclamation issue. And adding water to that, when we're concerned about where water is going already, would be a major challenge. They're doing it in Owens Lake, and they're doing that for a price tag of 25,000 acre-feet of water per year. And they already spend \$150 million, and on a smaller area of land.

Mrs. BONO. All right. And also I asked you a while back about a method of displacement, just to sort of build islands or a peninsula or something to cover up a shoreline, and you gave me a figure which was extraordinarily high which I wondered where you got that figure, because I couldn't imagine it could be that high. Where are we on something like that with displacement?

Mr. KIRK. Yeah, I haven't pursued it any further since you asked me to take a look at it. But we did ask some engineers that are familiar with putting structures in ocean water and in lakes. And the challenge is to move that much material into the body of water. And you're just talking about a massive amount of dirt that you're moving. And there are ways to make that reasonably cost-effective through some automated train loads of—and barges getting out and dumping in the Salton Sea. But moving that much dirt and then protecting it probably with rip-wrap, because we do have significant wave action at times at the Salton Sea, is a heck of a challenge.

Mrs. BONO. I still would like to look into that and get some actual numbers sometime.

Mr. KIRK. We could certainly pursue that. I'm sure the Bureau and the Authority could take a harder look at that. And one of our bigger challenges there is of course building in deep water and building on a little crack of the earth called the San Andreas fault.

Mrs. BONO. Why would it have to be in deep water when so much of the sea is so shallow?

Mr. KIRK. It doesn't provide much—in fact this is one of our biggest challenges of the restoration project. The idea of displacing land around the perimeter would be a lot cheaper, and building ponds and the like around the perimeter makes a lot of sense for controlling elevation. But if inflows drop, the sea drops. And you now just build your bathtub outside of the Salton Sea. So by building the island or the land form or the pond out on the shoreline of the Salton Sea, it doesn't do you any good if inflows drop.

Mrs. BONO. Also, all along—I've been involved in this now for 4 years, and we've always factored water transfers into the Salton Sea equation in saving the Salton Sea. So I get a little frustrated with you all when we come back here saying it's just not—it's almost as if we didn't factor it in. So there's no real answer required, I just want to let you know that all along we have factored this in. And it's nothing new. It's not a big shocking new factor to contend with.

My next question and then my last one before I get a Big Mac, or something.

Ms. Delfino, you talked about the avian population. Wouldn't the birds just simply go elsewhere and be fine, but choose another path?

Ms. DELFINO. That's a good question, one we've asked a number of biologists, including folks at the Point Reyes Bird Observatory. The short answer is we're not entirely sure about what will happen. I have spoken with Dan Anderson who is a researcher at UC Davis who is one of the premier white pelican researchers. He says that really it will be the young, the first-year pelicans. They just won't be able to fly far enough in order to go to other spots for nesting and feeding and roosting. And so his feeling is that for specifically for the white pelican population, that if the sea does become hypersaline and the Colorado River Delta isn't rewatered or other—you know, things of that type of scale found for additional habitat, that it's very likely white pelican population will be eligible for listing under the endangered and threatened—as endangered and threatened. So some birds, sure, they probably can relocate. For some other populations, no, they won't fare so well.

Mrs. BONO. Thank you.

Mr. Chairman, in closing, I just want to say I don't know if you're giving us closing statement opportunities, but I'm going to take a brief 30 seconds to say that, again, in the 4 years that I've been involved in this I've met an awful lot of wonderful people, and I think some of the best and brightest people have been in this room today, working on this issue, and it's really been a privilege for me to work on the issue. And certainly you and Duncan Hunter on the Salton Sea task force, two members that I have the utmost respect for. And I just want to say that it's a great experience, challenging but great. So thank you. And I yield back.

Mr. CALVERT. Thank you, gentlelady.

Mr. Kelly?

Mr. KELLY. Just one comment. You talked about pumping water, fresh water into the Salton Sea. Just be aware of the fact in 1944 treaty ranges between the United States and Mexico were concluded on the water rights along the U.S./Mexico border. And I can't address the treaty rights in Texas, but here in California and Arizona there was an authorization granted whereby Mexico was permitted to put oil fields in, water well fields on the Mexicali Valley on their side of the border, and we were entitled to have well fields on our side of the border. Our well fields are located in San Louisa, Colorado. And their well fields are located in the Mexicali Valley. If you get into the drilling on the border along that region in there, you're going to be impacted by those treaty rights. So you ought to take a close look at what you're doing there before you go too far.

Mr. KIRK. Agreed.

Mr. CALVERT. Thank you, gentlemen.

You mentioned the Texas part of that agreement. As you probably know, Mexico is behind about a million 300,000 acre-feet which they owe the United States at this point. Maybe we can make a swap.

Mr. Hunter?

Mr. HUNTER. Thank you, Mr. Chairman, and folks, thank you for being with us and being the cleanup panel here.

I'd like to ask you all—and this is what I distilled from your remarks was that all of you are against the water transfer as it is written, being based on onfarm conservation. Is that accurate?

Mr. KIRK. Correct.

Ms. DELFINO. Yes.

Mr. HUNTER. So now, Mr. Kirk, is that the Salton Sea Authority is against the water transfer or is that you in an individual capacity or what?

Mr. COSTA. They've taken a vote, haven't they?

Mr. KIRK. We have. It's a little bit of both. The Salton Sea Authority adopted a resolution just about a month ago that opposed water transfer projects that significantly reduced the elevation of the Salton Sea. This one qualifies.

Mr. HUNTER. OK. So the official position of the Salton Sea Authority is that it is against the San Diego and Imperial water transfer.

Mr. KIRK. The proposed project. The current project as written.

Mr. HUNTER. OK. Ms. Delfino?

Ms. DELFINO. Yeah, I mean, we have provided extensive comments to the—to IID and to the Bureau of Reclamation on their EIR/EIS and to Fish and Wildlife Service, and we participated as parties in the State Water Resources Control Board proceeding, which part of that proceeding is to answer the question of whether the transfer in its current form will have unreasonable impacts on fish and wildlife. And its position that as it's currently written, yes, it will have unreasonable impacts. It will run afoul of both Federal and state endangered species acts, in its current form.

Mr. HUNTER. OK. And Mr. Cohen, are you folks opposed to the agreement as written?

Mr. COHEN. We also submitted extensive comments on the draft EIR/EIS which I submitted in electronic form to the Subcommittee, and agree that the impacts are not fully mitigated in their environmental or socioeconomic or to human health as is currently proposed in the preferred alternative.

Mr. HUNTER. OK. Now, if your recommendation—and I take it your recommendation, Mr. Kirk, is that from the Authority, is that—and I presume that Ms. Delfino and Mr. Cohen, you concur in this—is what you'd like to see is a fallowing program in place of the—change the present agreement and have a fallowing program in which there's enough land fallowed to send water to the coast and to send water into the Salton Sea. Is that right?

Ms. DELFINO. Well, my position and the position of my organization is that we recommend a conditional approval for 5 years in which a temporary fallowing program is then adopted during that 5-year period, and also we do additional analysis to determine what form the transfer should take. We're not saying that today you should go and fallow 75,000 acres of land. We're saying that there needs to be additional work done before that decision is made both in terms of environmental impacts and also third party impacts.

Mr. HUNTER. OK. But you realize in saying that that it is considered generally that 50,000 acres of land would produce about 300,000 acre-feet, that that would produce the water that's involved in the agreement. The additional 20-, 25,000 acres of land would basically be water that you'd simply be pouring out of the Colorado River system, maybe through the fiction of running it over ground that has no seed on it, if you had to do that to satisfy law. But that you would run that—basically that water into the

Salton Sea to keep it full, you understand that, right? That 25,000 of those acres would be fallowed not for the transfer but for the sea. Mr. Kirk, is that your proportion?

Mr. KIRK. No, in fact it's not. And my understanding is based on IID's testimony at the State Water Resource Control Board where they indicated that the previous plan to provide 5,000 acres of ponds is no longer on the table. And they committed to the State Water Resources Control Board in testimony that they're moving on to habitat conservation plan No. 2, which is makeup water. They made very clear in their testimony that that makeup water may not be fallowed—generated by fallowing. It may be provided by some other source. And I don't know what that other source is, but that's what they indicated. And from my perspective and the position of our board and their resolution, what we'd like to see is a water transfer that doesn't negatively affect the Salton Sea.

Mr. HUNTER. So you don't agree with the 75,000 acre fallowing figure?

Mr. KIRK. Oh, I agree generally with your calculations. It depends a lot on which farm land is fallowed, high use, low use, whatever. But 75,000 is a pretty accurate estimate.

Mr. HUNTER. Well, then you agree also with the proportion that says that about 25,000 of that is a farm land that is fallowed so that water that otherwise that would have been utilized to irrigate that land flows directly into the sea, and about 50,000 acres is required for the 300,000 acre-feet of transfer?

Mr. KIRK. I agree with your math. I guess I disagree with your characterization. One way to think about it is 75,000 acres and transferring the consumptively used water, which is the standard in the West, and continuing to allow water that would have flowed into the Salton Sea to continue to do so, whether it's through phantom farming or some other mechanism. But I agree with your math.

Mr. HUNTER. Let's be candid with each other. I mean, if it didn't flow water into the sea, if keeping the sea full was not a requirement in your equation, 50,000 acres of fallowing would produce 300,000 acre-feet of water. So you wouldn't have to fallow 75,000 acres. Whether you go through the fiction and evapotranspiration or not, you don't need 75,000 acres to send water to the coast. That's more than you need. So you understand that.

Mr. KIRK. Yes, I understand that.

Mr. HUNTER. I think we have to be candid with the people in the Imperial Valley.

Mr. KIRK. I think I understand your point that you have to transfer—you have to fallow more land to protect the environment and air quality issues and all the other issues.

Mr. HUNTER. So here's my question. If the water deal has basically encompassed how the people of the Imperial Valley are going to be reimbursed for 300,000 acre-feet, for the 50,000 acres of land for 300,000 acre-feet water, what you actually now need to free up is in excess of 400,000 acres because you have to send water into the sea; who is going to pay for the extra hundred thousand acre-feet? In other words, that's not included in any agreement.

Mr. KIRK. So who is going to pay for the water that's currently going into the Salton Sea to maintain the water that's currently going in the Salton Sea?

Mr. HUNTER. Well, if you look at it from the perspective of the people in the Imperial Valley, they're going to do water conservation measures on land, onfarm water conservation measures, and they're going to take that \$250 per acre foot and do the things that Mr. Cohen talked about, pump-back systems, lining canals, and sediment. Right. Now they're told, well, wait a minute, we don't need 300,000 acre-feet, we actually need you to free up through fallowing 400,000 acre-feet. That means you're going to have somebody who owns 20,000 acre-feet not farm. OK? So the question becomes—and you got \$250 in payment that's been worked out and calculated by all parties in this water transfer with respect to the 300,000 acre-feet that goes to the cities. Who pays for the hundred thousand acre-feet that now comes off of 20,000 acres that had been fallowed to keep the sea full? You got to answer that question. It's a fair question.

Mr. KIRK. It may be a fair question. I think my answer has also been fair and that is what you're doing, of course, is protecting inflows that are currently getting to the Salton Sea.

Mr. HUNTER. But you understand the farmer that's putting that water in right now is flowing it over a field over a crop right now, and a third of that water is going into runoff, going into the sea. Now, if you fallow—fallow means not farming—he now is not harvesting a crop off that land. And yet the water, at least a hundred thousand acre-feet of it that heretofore was going over his fields and other's fields, are now going into the sea. So the question becomes, who pays for that water.

Now when we brought that up in our meeting with Senator Feinstein, Barbara Boxer's staff member said, you know, he said, in Northern California we actually pay farmers for water to be put into our wildlife fund, which was a new suggestion.

But my point is, there's new water now, and there's new land under the recommendation that's been made I presume by you folks, at least by Ms. Delfino and Mr. Cohen, that this be a fallowing technique. Somebody's got to pay for that hundred-thousand acre-feet of water that doesn't go to the coast, that now goes to the sea, and the people who have fallowed their land to produce that water. Who pays for that, Mr. Cohen?

Mr. COHEN. I would certainly agree with you that the farmers who are fallowing land should clearly be compensated. And I would like to reiterate that under the Pacific Institute proposal that fallowing is part of the initial 5-year period. So as the water transfer amount is ramped up, zero to 20,000 to 40,000 to 60,000, and a little over a hundred thousand at the end of the 5 years, that would be paid for by the revenues from San Diego. So—

Mr. HUNTER. Wait a second. So what you're saying is this. They've worked out a formula for this 300,000 acre-feet that was to be transferred to San Diego, and that formula was \$250 an acre-foot approximately. And that was going to pay for the water pump-back systems and the general upgrade and efficiency actions with respect to the overall district, et cetera. Now what you're saying is, instead of 300,000 acre-feet, it's going to have to be something like

400,000-plus acre-feet. And that means there are some farmers who will produce—who had 20,000 acres who now are going to have their fields fallowed, and somebody needs to pay for that. And what you're suggesting is take it out of the \$250 per acre foot. Is that right?

Mr. COHEN. I would say that once you start getting to those full-scale limitations you have a real problem. That's why our idea is that you look at this interim schedule. The Imperial Valley Farm Bureau has also suggested that an interim fallowing period so that they can receive sufficient revenue so they can start to invest in these—

Mr. HUNTER. Let's talk about dollars and cents. And those \$250, according to Mr. Horne, are all spoken for. That's going to be going in for these various conservation measures that are going to be taken. Now you're recommending that they free up another hundred-thousand acre-feet. Somebody's got to pay for that.

Mr. COHEN. I'm not recommending that they free up the extra hundred-thousand acre-feet. We have—

Mr. HUNTER. You have to do that to keep the Salton Sea full, Mr. Cohen.

Mr. COHEN. I'm suggesting that in the 5-year interim period, as we're ramping up and looking for full-scale long-term options, that this provides us an opportunity and some time. The \$250 that San Diego came up with was based, as you mentioned, on investing in these onfarm efficiencies. But the cost of actually fallowing the land is much less than that. So you have some money to offer to farmers so they can voluntarily fallow their land, generate this water which, within these initial 5 years, is roughly going to be within the amount that inflows in the Salton Sea fluctuates anyway. When you start getting to the full limitation that's when you see some market reductions—

Mr. CALVERT. If the gentleman would yield, when you said the impacts were spoken for, in your own testimony you said that the economic impacts of Imperial County, which were not addressed, if fallowing takes place, are you saying that the economic impacts also can be taken care of out of the money that's brought to the table from the San Diego transfer?

Mr. COHEN. I think in the initial period again the \$250 could provide—

Mr. CALVERT. But that 250 bucks is getting split up quite a bit here. I mean—

Mr. COHEN. But we're asking farmers to fallow some of their land, provide them some incentive. Some of the remainder needs to go to IID for lost revenues. And the remainder, I would suggest, needs to go into the communities to make up for these—for whatever economic impacts. But in the first years, the amount of jobs that are lost from fallowing 3,000 acres of land or 5,000 acres of land I would suggest are pretty small.

Mr. HUNTER. Well, let's go to this onfarm conservation. The interesting thing here—I don't know if you caught my opening remarks, but the interesting thing about this is that in fact when Mr. Kirk was briefing us about how we were going to save the sea, and he would get up and give briefings on how we would save the sea in light of the water transfer, that this onfarm conservation is

something that's been pressed on all districts all over California, indeed, all over the West. All over the West you've got people living in cities saying, how come you guys don't line your canals, how come you don't have water pump-back systems.

Is it now your position that modern scientific water conservation measures are not good for the environment and, therefore, should be discouraged and should be denied?

Mr. COHEN. Absolutely not. My opinion is that in this 5 years we need to figure out mitigation when we start doing these conservation elements. In the 6 months that remain to us before the interim surplus deadlines are suspended, I don't believe there's time to start developing real mitigation plans for the Salton Sea that looks at the environment and human health impacts.

Mr. HUNTER. I've got another recommendation for you. What would you think about supporting legislation that protects the valley from environmental exposure, that is, from being sued—see, they've put this agreement together, they've actually signed the agreement. And when they did that everybody anticipated that the Salton Sea would be solved before this water transfer went through. There's a great element of unfairness in this. They signed this agreement thinking that this transfer—that the Salton Sea would be taken care of, and now they're facing massive environmental exposure if they do what the cities asked them to do, which was to do these conservation projects.

So would you support a legislation that would give some kind of a shield for 5 years—you talked about maybe following for 5 years, right? How about would you support a legislation that would give the valley a shield for 5 years so that those 140,000 people that make up that community aren't facing massive exposure? Would you agree with that?

Mr. COHEN. I'd certainly agree with you that exposure should be a major concern. But the other concern is what happens to the actual species themselves and to human health if we pass legislation providing that the state or Federal Government or somebody else will assume these costs. That still means that human health is impacted and that the species potentially could be lost.

So my thinking in this 5-year interim plan is that we have some time. That basically this is a 5-year buyout of time. So we can really start looking at how we can develop a dust abatement plan, how we protect the species so we don't need legislation.

Mr. HUNTER. OK. Thank you, Mr. Chairman. And thanks for indulging me in these questions.

And folks, thanks for being with us today, and appreciate you. And maybe we're going to ask Fish and Wildlife and Fish and Game to reengage on this mitigation program. Ms. Delfino and Mr. Cohen and maybe you folks, and Mr. Kirk, maybe you folks could participate in that.

Mr. CALVERT. Thank you.

I'd thank Mr. Hunter, who's our incoming Chairman of the Armed Services Committee. And we may need you to call on the Army to help us with this.

I want to thank my first boss in the political world, Assemblyman Dave Kelly, for coming out today. And we've been discussing the Salton Sea for a long time, I suspect we probably will for a long

time to come. But hopefully we'll come up with a solution. And my good friend and neighbor Mary Bono. And we appreciate your attendance and the attendance of all the witnesses who were here, some of which, all day long. Thank you very much.

We are adjourned.

[Whereupon, at 3:05 p.m., the Subcommittee was adjourned.]

[Additional statements submitted for the record follow:]

A statement submitted for the record by Gregory L. James, follows:]

Statement of Gregory L. James, Director, Inyo County Water Department

I was requested to testify as a representative of the California Regional Counsel of Rural Counties at the oversight hearing conducted by the House Subcommittee on Water and Power on June 14, 2002, in La Quinta, California, concerning the "Implementation of the California Plan for the Colorado River- Opportunities and Challenge." I was asked to outline the history and the current status of affairs in the Owens Valley because of the parallels between the Owens Valley and the situation confronting the Imperial Valley and the Salton Sea. Shortly before the hearing, I was told that it would not be necessary for me to testify in person, but I was requested to submit a brief written statement to the Subcommittee. If called as a witness, I would testify as follows:

In the early 1900s, the City of Los Angeles began construction of an aqueduct from the Owens Valley to supply the growing city located some 250 miles to the south. In 1913, the aqueduct was completed. Beginning in 1913, the City of Los Angeles diverted the entire flow of the Owens River into the aqueduct. As a result, over 60 miles of river were deprived of water. By 1924, the terminal lake of the river, the 100 square-mile Owens Lake, was completely dry.

Over time, the once thriving fishery, trees and wetlands dependent on a living river disappeared. Further, immense dust clouds rose from the now-dry bed on Owens Lake enveloping far flung areas in a fog-like haze.

As Los Angeles was building its aqueduct, it assured the upstream farmers and ranchers that the city would only take the water in the river that reached its aqueduct; therefore, the ranchers and farmers had no cause to fear a loss of their water or a fallowing of their land. However, the situation dramatically changed in the mid-1920s, following a lengthy drought that resulted in little river flow into the aqueduct. At that time, in order to ensure a reliable supply to its aqueduct, the City of Los Angeles announced its intent to purchase all the upstream land and water rights in the Owens Valley. By the mid-1930s, despite sometimes violent opposition, the city had acquired virtually all the farm and ranch land and water in the valley. These actions left a legacy of distrust of Los Angeles that persists to this day in the Owens Valley.

Although the City of Los Angeles leased back most of its acquired lands, many areas that had been formerly irrigated were converted to dry grazing leases. Eventually, irrigated lands in the Owens Valley declined from approximately 75,000 acres to 10,000 acres. The loss of farming and ranching ruined many valley businesses as customers disappeared. Business owners demanded that Los Angeles pay reparations. However, in lieu of reparations, the city simply purchased almost all of the business property (and much of the residential property) in the valley. Small farming communities throughout the valley literally disappeared—the abandoned buildings and houses torn down by the city.

The city's land and water purchases not only destroyed the valley's agricultural base and changed the appearance of the valley, but also the ability of local government to provide schools and other essential services to the community was crippled by reductions in the tax base. Prior to a decision by the city to sell some residential and business properties in the valley's towns, Los Angeles owned almost all the farms, ranches and businesses in the Owens Valley. (At the present time, Los Angeles still owns more than 250,000 acres in the valley, including many business properties.)

In the 1940s, the reach of Los Angeles was extended when it expanded its aqueduct system into the Mono Basin and began diversions from the streams that fed Mono Lake. In the early 1960s, Los Angeles announced plans to further increase its water exports by constructing a second aqueduct to parallel the first, original aqueduct. The second aqueduct would increase the export capacity by 50 percent to approximately 500,000 acre-feet per year. The second aqueduct was completed in

1970. It was to be filled by increased diversions from the Mono Basin, by further reducing irrigation in the Owens Valley, and by increasing groundwater pumping from the valley.

The second aqueduct spawned litigation challenging the city's increased groundwater pumping and its increased diversions from Mono Lake. In regard to Mono Lake, in the early 1980s, the city was ordered to greatly curtail its diversions from the tributaries to Mono Lake so that instead of continuing to dry up, the lake would refill, and be maintained at a predetermined level. The reduction in diversions was necessary to protect the scenic values of the lake, as well as its brine shrimp and brine flies upon which breeding and visiting waterfowl were dependent.

In the Owens Valley, Los Angeles' groundwater pumping caused springs and seeps (and the associated riparian habitat), as well as groundwater dependent vegetation, to die off throughout the valley. In 1972, the County of Inyo commenced environmental litigation against the city challenging its groundwater pumping. In 1980, the County's voters overwhelmingly adopted an ordinance that required the city to obtain a permit from the County if it wanted to continue to pump groundwater. Litigation was immediately commenced by Los Angeles challenging the County's authority to regulate its activities.

In 1991, following nearly two decades of litigation, the City of Los Angeles and the County of Inyo agreed to a historic settlement which allows Los Angeles to obtain a reliable water supply from the Owens Valley while the valley's environment is protected. Under the settlement, the two entities jointly manage groundwater pumping and surface water diversions to ensure that the goals of the settlement are achieved. An important mitigation measure contained in the settlement is a commitment to restore the more than 60 miles of the Owens River that have been dry since 1913. Water should once again flow in the river within the next two years.

In the 1990s, following litigation arising from the worst particulate pollution in the United States caused by blowing dust from Owens Lake, and resulting violations of state and Federal clean air laws, the City of Los Angeles entered into an agreement with the local air pollution control district, the State of California and the Federal Government which commits the city to substantially reduce dust emissions from Owens Lake. In order to accomplish this, Los Angeles must divert water from its aqueduct, and spread it over the dust-prone areas of the lake to damp down the dust or to grow dust-reducing vegetation on the lakebed. The first stage of Los Angeles' dust abatement efforts commenced late last year.

It is ironic, that in many unforeseen ways, the Owens Valley has benefitted from Los Angeles' intervention into the life of the valley. Today, almost all of Los Angeles-owned lands are open to the public. Because the valley is virtually owned by the city and managed as a watershed, the valley is open space spared the rampant population growth and land development so common throughout the West. With the restoration of the Owens River, the abatement of dust from Owens Lake, the protection of Mono Lake and the management of groundwater pumping with the goal of environmental protection, the valley's future looks promising. Although the economy is no longer dependent on agriculture, because of the beauty of the valley, its surrounding areas and the many recreational opportunities, over time, visitor dollars have replaced farm dollars.

Despite its recent successes, the Owens Valley vividly demonstrates the consequences of transfers of water from one region to another. Its history evidences the need for the establishment of a means for fully assessing and mitigating the "third party" socioeconomic and the environmental impacts on a region before its lifeblood is transferred for use in other areas.

[A statement submitted for the record by Les W. Ramirez follows:]

Statement of Les W. Ramirez, Torres-Martinez Desert Band of Cahuilla Indians, Special Counsel for Water Resources & Environmental Affairs

Mr. Chairman and members of the Committee, I am here today on behalf of the Torres-Martinez Band of Desert Cahuilla Indians in my capacity as the Tribe's Special Counsel for water resources and environmental affairs. Before I begin my testimony about the significant impacts that California's Colorado River Water Use Plan will have on the Torres-Martinez Tribe, I would like to thank you for coming to California to gain a better understanding of this complex situation and considering the concerns it raises for the Torres-Martinez Tribe.

The Torres Martinez Desert Cahuilla Indians have inhabited the Coachella valley and environs as a functioning and organized society since time immemorial. In

1876, the United States recognized the Torres Martinez Tribe as a sovereign government and, concurrently, has recognized the Torres Martinez Indian Reservation as the Tribe's permanent homeland. That homeland includes significant land, habitat and wildlife alongside and underlying the Salton Sea.

It is important to note that for sixty percent of geologic history, the Salton Sea has existed in some form as a natural terminal desert. Most recently, in 1905, the Colorado River breached diversion works near the U.S./Mexican border and flowed unchecked into the Salton Sink for nearly two years. This flooding reestablished the Salton Sea and inundated approximately 2,000 acres of the Torres-Martinez Reservation.

The Torres Martinez Tribe understands the importance of finding the water resources necessary to meet the needs of all Californians and to allow for reasonable future growth in the state. It is our view, however, that the means by which those goals are met should not endanger the lives of our Tribal members or other people inhabiting the Coachella and Imperial Valleys, and should not inordinately affect our abilities to earn productive livelihoods, maintain our communities, and protect our quality of life.

In setting forth the concerns of the Torres-Martinez Tribe, let me begin by describing how difficult it is to forecast what the real impacts of California's Colorado River Water Use Plan will be. The process for public review required under the National Environmental Policy Act has been so severely segmented that it is impossible to conduct informed and meaningful assessments. The Tribe has already reviewed separate and sometimes contradictory environmental analysis documents for the Implementation Agreement and Inadvertent Overrun and Payback Policy, for the implementation of the Water Quantification Settlement Agreement, and for the Imperial Irrigation District's Water Conservation and Transfer Project Draft Habitat Conservation Plan. We are still awaiting the release of a Draft Environmental Impact Report for the Coachella Valley Water Management Plan. All of these elements are undeniably interrelated and the fragmentation of the environmental analysis not only renders public scrutiny impossible, it improperly diffuses the responsibility for the foreseeable environmental impacts.

Many of the environmental impacts that are foreseeable pose a significant threat to human health and safety and to the natural environment. The very survival of the Torres-Martinez Tribe may be threatened by the potential impacts to the vital groundwater underneath the Reservation. The existing environmental documentation fails to provide adequate data, analysis, or even honest discussion about the action agencies' current incapacity to make meaningful forecasts about impacts to groundwater quality and levels. Therefore, any approval of the proposed California Colorado River Water Use Plan in its current form by the Department of the Interior would constitute a breach of the United State's fiduciary duty to protect the trust assets of the Tribe.

The lack of meaningful information is very troubling. At the most fundamental level, the action agencies cannot predict with any consistency whether groundwater levels under the Torres-Martinez Reservation will rise or fall with the contemplated changes in water management.

Of greater concern, there is a lack of analysis regarding the effects on the quality of the groundwater aquifer, which is the Tribe's only source of drinking water. The Coachella Valley Water District is proposing to build a groundwater recharge facility less than one-mile up gradient from the Torres-Martinez Tribe's main domestic drinking water well. That facility would recharge the Tribe's aquifer with Colorado River water, water that the U.S. Environmental Protection Agency has identified as containing dangerous levels of perchlorate. Indeed, according to the U.S. EPA, there is no known safe level for perchlorate in drinking water.

While the Tribe looks forward to working with the Coachella Valley Water District and the other action agencies in addressing this issue, it is imperative that adequate analysis be performed, and that appropriate upstream re-mediation and local protection measures be implemented prior to allowing groundwater recharge with Colorado River water to move forward.

Not only is the Tribe alarmed that the action agencies have not provided practical analysis or mitigation strategies for perchlorate contamination of the Tribe's sole drinking water source, but the existing environmental analyses also fail to appropriately analyze the potential to mitigate excessive selenium levels. The action agencies claim that selenium levels cannot be mitigated, ignoring utilization of anaerobic, microalgal, or chemical selenium removal, or potential methods of alternative drainage management. The resulting impacts would likely cause massive avian and aquatic die off which in turn would severely affect the water, air, land and wildlife resources of the Tribe, as well as the quality of life of our members.

We are also very concerned about the lack of meaningful analysis or mitigation for above ground impacts to Tribal Assets. The action agencies have relied upon faulty assumptions in the development of their environmental baseline regarding the longevity of the Salton Sea as a functioning ecosystem. In their documents, the agencies greatly exaggerate the rate of deterioration of the water quantity and quality of the Salton Sea, making it seem as if withdrawing 300,000 acre-feet of inflow would only marginally accelerate the ecological demise of the Salton Sea. Use of this scientifically unsound environmental baseline allows the action agencies to avoid addressing critical issues and will exclude consideration of meaningful options to avoid or properly mitigate the environmental impacts of the proposed water transfer, most particularly, regarding impacts to the human environment and wildlife values of the Reservation.

The overarching environmental impact will be the accelerated eutrophication of the Salton Sea. The action agencies readily acknowledge that the proposed water transfer, if not tempered by finding additional freshwater inflows to the Salton Sea, will cause the Salton Sea water level to drop dramatically and correspondingly cause contaminant levels to rise dramatically. Their own estimates show that the lowering of the Salton Sea will expose hundreds of acres of submerged Tribal lands, which will likely be covered with unstable sediments, poisoned with selenium, salt, pesticides and other contaminants.

Not only will the reclamation of these newly exposed land present enormous and expensive challenges to the Tribe; the impacts to the Reservation's air quality may make areas of the Reservation uninhabitable. The current environmental analysis relies on the assumption that a saline crust would form over newly exposed lands, minimizing fugitive air emissions. However, the massive air emissions experienced at Owens Lake dry surface bed contradict this hypothesis. The action agencies currently assert that the exposed saline crust would be stable because it would not be disturbed by human activity, but in contradiction they also suggest that the Torres-Martinez Tribe will benefit from opportunities to agriculturally develop the very same lands, which by necessity, would entail land surface disturbance.

The exposure of 78 square miles of shoreline will cause irreparable damage to the bird populations that currently rely on the Salton Sea, displacing hundreds of thousands of birds. The Salton Sea has replaced the critical link in the Pacific Flyway for waterfowl, marsh and shore birds that has been lost by the over development of the Californian coastal plains, where the Flyway was previously located. 25 to 40% of the U.S. Yuma clapper rail population, half of the California population of snowy plover, 80 to 90% of the entire population of American white pelicans, and the second largest population of wintering white-faced ibis utilize the Salton Sea. Of the 400 bird species, 27 mammal species, and five reptile and amphibian species that rely on the Sea, the Federal Government has already classified 58 as sensitive.

The lowering of the Salton Sea will also destroy the entirety of the fish resources that the Torres-Martinez Tribe and neighboring communities rely upon, an estimated 160 million fish. Currently, the action agencies dispose of the need to mitigate for the predicted death of all fish in the Salton Sea by claiming that they are all introduced, non-native fish. This approach is flawed in two aspects. First, the fish that currently exist in the Salton Sea attract more than 400,000 fishermen every year, injecting millions of dollars into the local, low-income economies. The Imperial Irrigation District itself estimates this economic impact of its water transfer project to be \$790 million, if replacement freshwater inflows to the Salton Sea are not required. Second, the Salton Sea supports the native endangered desert pupfish. The Tribe's concerns about the meager mitigation plans for the desert pupfish and the outrageous acceptance of the death of all other fish in the Salton Sea is accompanied by concerns about the lack of any plans to mitigate the odor and airborne disease impacts that will accompany the die-off of the Salton Sea's fisheries.

The Imperial Irrigation District and the Bureau of Reclamation have formulated a Draft Habitat Conservation Plan to mitigate the effects of reduced inflows to the Salton Sea. Unfortunately it is a meaningless document because it presents two wildly divergent scenarios and fails to assert which one the agencies will employ. This indecision is of great concern to the Tribe and should also trouble this Committee. The first mitigation strategy contemplates letting the Sea die completely, to be replaced at a later date with a small cluster of shallow ponds. This, we believe, is biologically and legally indefensible.

The second mitigation strategy is founded on the premise the Imperial Irrigation District can conserve an additional 300,000 acre-feet of water per year to be dedicated as inflows to the Salton Sea. The Tribe readily supports this mitigation strategy as it could greatly alleviate many of the concerns I have discussed, however the

concept has already been rejected by a Resolution of Imperial Irrigation District's own Board of Directors.

Clearly, the proposed Colorado River water management changes will have direct effects on the human health, land, water, fish, wildlife and cultural assets of the Tribe, none of which have been properly considered by the action agencies. This failure to adequately consider the impacts on Tribal assets or to provide adequate mitigation measures for foreseeable impacts constitutes a violation by the Department of the Interior of the trust obligation that the United States owes to the Tribe.

It is imperative that the Committee use all of its influence to encourage the action agencies, in general, and the Imperial Irrigation District, in particular, to adopt measures to develop and allocate replacement freshwater inflows to the Salton Sea before allowing the Project to move forward. By doing so, we will all have the opportunity to collect additional data, conduct better analysis, design meaningful mitigation strategies and find an agreeable solution that will allow us to satisfy the needs of the cities of southern California, support the residents and farmers of the Coachella and Imperial Valleys, restore the Salton Sea, and protect the Torres–Martinez Tribe from once again suffering immeasurably due to the mismanagement of the Colorado River.

Thank you again for considering the concerns of the Torres–Martinez Tribe. Mr. Chairman, this concludes my statement and I will now be happy to answer any questions the Committee may have.

