

I. Introduction

Implementation of water conservation measures in IID could make a substantial amount of water available for other uses, either within the district or elsewhere.

-- SWRCB Order WR 88-20, p.9.

The Imperial Irrigation District ("IID") and the San Diego County Water Authority ("Authority") have entered into an historic long term conserved water transfer agreement ("Agreement") which, if implemented, will benefit all Californians. The Agreement calls for the IID to conserve water with funds provided by the Authority and to then transfer the amount of water conserved to the Authority for use within its service area.

This Petition seeks approval of the conserved water transfer under the Agreement from the State Water Resources Control Board ("SWRCB") pursuant to SWRCB Decision 1600; SWRCB Water Rights Order 88-20; Article X, § 2 of the California Constitution; and sections 100, 109, 1011, 1012, 1700 et seq. and 1735 et seq. of the California Water Code.¹ The transfer of conserved water will have a term of 45 years with one optional 30-year renewal; will involve conservation efforts undertaken within the IID in order to allow Colorado River water to be diverted by the Authority for use within its service area, and will involve a change in point of diversion under Permit Number 7643 (Application Number 7482) from Imperial Dam to Lake Havasu.

By this Petition, the IID and the Authority seek an order of approval from the SWRCB which includes the following findings required by the terms of the Agreement in addition to the findings required by § 1700 et seq. and § 1735 et seq.:

(A) California law, including §§ 1011, 1012 and 1013, applies to and governs the IID's transfer of conserved water to the Authority, and the IID's water rights are unaffected by the IID's transfer of conserved water;

(B) The conserved water transferred by the IID to the Authority under the Agreement retains the same priority as if the water had been diverted by and used within the IID;

(C) The transfer of conserved water by the IID to the Authority under the Agreement is in furtherance of SWRCB Decision 1600; SWRCB Order WR 88-20; Article X, § 2 of the California Constitution; and §§ 100 and 109;

(D) The transfer of conserved water by the IID to the Authority under the Agreement further establishes the reasonable and beneficial use of water by the IID;

(E) The quantity of conserved water transferred in each year of the Agreement will be verified by the SWRCB confirming that: (1) the IID is enforcing the contractual duties and obligations of the "Contracting Landowners" within the IID to undertake water conservation efforts; (2) the IID has undertaken water conservation efforts, if applicable; and (3) the IID's diversions at Imperial Dam (less return flows) have been reduced in an amount at least equal to the quantity of conserved water transferred for each year of the Agreement;

(F) The IID's reduced diversions at Imperial Dam (less return flows) during the term of the Agreement will be measured by subtracting from 3,100,000 acre-feet per year ("AFY") the sum of [actual diversions (less return flows) of the IID during the applicable year of the Agreement under its priority 3 water right plus the amount of water transferred to the MWD under the IID/MWD 1988 Agreement] and disregarding the actual diversions (less return flows) of the IID during the applicable year of the Agreement, if any, under its priority 6 or 7 water right; and

(G) To assist the Bureau of Reclamation ("BOR") in the administration of diversions on the Colorado River and to insulate junior right holders from any possible negative impact during the term of the Agreement, the IID will forbear under its priority 3 water right from diverting (less return flows) in excess of 3,100,000 AFY, and from diverting (less return flows) in excess of 90% of the water available under its priority 6 and 7 water right.

Approval of the Agreement on the terms requested will confer substantial benefits to the IID, the Authority, junior right holders and to all of California. The IID will have the funds to undertake significant new additional water conservation efforts; the Authority will obtain an important long-term source of reliable water, thus reducing its water supply reliability problems resulting from minimal local supplies and almost total dependence on imported supplies from the Metropolitan Water District of Southern California ("MWD"); junior right holders will obtain enhanced reliability as a result of IID's forbearance; and California will make significant progress towards accomplishing its goal of transferring conserved agricultural water to urban areas in short supply and reducing its use of Colorado River water closer to its normal flow legal apportionment of 4.4 million AFY.

The Agreement produces all the above benefits in full compliance with California law, in furtherance of the Legislature's mandate to encourage agriculture-to-urban conserved water transfers, in conformity with the previous orders of the SWRCB, and without harming other legal users of water, including junior Colorado River right holders, or injuring the area of origin. Further, the Agreement provides for the SWRCB to retain jurisdiction to monitor compliance with the Agreement's provisions to create additional conserved water for transfer. Environmental issues and concerns are fully addressed by mandatory CEQA and NEPA compliance prior to the determination of water conservation methods and as a condition to the commencement of any water conservation efforts and the transfer of any conserved water.

This Petition is organized into various sections dealing with particular areas of import, both factual and legal. A documentary appendix ("IID Appendix") is provided which contains full text copies of certain referenced agreements, orders and decisions. The IID and the Authority anticipate supplementing the record before the SWRCB during the approval process and providing all documents and information the SWRCB requires to approve the proposed transfer of conserved water under the Agreement.

¹ All statutory references hereafter are to the California Water Code unless otherwise noted.