A Reader Writes: Starting over is a bad choice
By BRIAN BRADY
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There is a common misperception in the Imperial Valley that the Imperial Irrigation District is transferring water to urban Southern California because it isn’t needed here and there is money to be made in sending it elsewhere.

The reason this myth of “selling water” has taken hold at the local level, I believe, is because the internal debate over the Valley’s water rights has been raging for so long that fatigue has set in and only a few people are still around who can recall the chain of events leading up to the 2003 signing of the agreement, which, in turn, set into motion the nation’s largest agricultural-to-urban water transfer.

IID is transferring water to the San Diego County Water Authority and the Coachella Valley Water District because of a ruling in 1982 by the State Water Resources Control Board that the district was failing to put its water to reasonable and beneficial use. Even though the district has long maintained that its water use is as efficient as any purveyor’s in the West, a calculated determination was made that the costs of future legal fights were outweighed by the safety and certainty of a water transfer agreement that would pay for greater efficiency and shore up its exposure to reasonable and beneficial use challenges.

In 1995, IID began negotiations with San Diego to conserve and transfer up to 200,000 acre-feet a year through a combination of system and on-farm water conservation measures. Those talks produced a signed agreement in 1998, but its implementation was folded into a larger effort by the federal government to quantify water use in the lower basin of the Colorado River and bring California into conformity with its annual entitlement of 4.4 million acre-feet from the river.

The purpose of this overarching Quantification Settlement Agreement was to resolve longstanding disputes between water agencies that would, according to then-Secretary of the Interior Gale Norton, usher in “an era of limits” on the Colorado River. The next four years would be spent in crafting individual agreements that would not only pass muster with the seven Western States that rely on the Colorado River but would also find support on the IID board.

The linchpin of this agreement was always the water transfer between IID and San Diego, but the priority system among Colorado River contractors as well as the state’s interest in addressing impacts caused by the transfer on the Salton Sea introduced two new aspects to the discussion. The first was to allow the Coachella Valley Water District into the transfer agreement for an additional 100,000 acre-feet a year; the second was to adopt fallowing as the primary method of generating water for the transfer during the first 15 years of the agreement to mitigate its effects on the Salton Sea.

Neither of these accommodations was well-received in the Imperial Valley, but IID remained constructively engaged in the process because the alternative, a summary taking of water by the federal government, was considered too great a risk for the district to run. Of course, 327,000 acre-feet of water was taken from IID in January 2003, following a New Year’s Eve vote by the board that failed 3-2, and it was only restored by winning an injunction in U.S. District Court.

But the threat of a protracted legal battle with the Department of the Interior convinced the board to try again, which it did on Oct. 3, 2003, passing the QSA by a 3-2 vote. IID then went to court to validate the agreement and the QSA coordinated cases were taken up before Judge Roland Candee in Sacramento Superior Court.

Throughout the ensuing six-year period, the IID’s position has been the same: the water transfer agreements authorized by the QSA are far from perfect but are needed to afford the district and its water users both a revenue stream to pay for conservation and enough time to stave off any future legal challenge to its
reasonable and beneficial consumptive use. The QSA is the product of decades of conflict resolution and compromise and if it is allowed to unravel, the result will be chaos.

The public has a right to know why the IID, in light of Judge Candee's decision to invalidate the QSA over its perceived deficiency in parceling out responsibility for the mitigation of the transfer's effects on the Salton Sea, would seek a stay of this ruling and to appeal it so that the transfer of water can continue. Why, our critics ask, hasn't the district walked away from the QSA and announced to the world that it now wants a more lucrative water transfer agreement than the one found to be invalid by a state court?

Perhaps the best way to understand it is to consider what IID would be walking away from. Remove the basic protections provided to IID under the QSA from hostile legal action by either the state or the federal government and the vacuum created in its wake will become a vortex of uncertainty and vulnerability. That's why the existing agreement, even though it has been ruled invalid, offers the most viable framework and least risk to the district in reaching accord on the Salton Sea mitigation question. The promise of a better deal must be measured against the prospect of no deal.

For this reason, above all others, abandoning the QSA and starting over again wouldn't just be bad public policy. It would be bad for the Imperial Valley.

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