WHEREAS, the Imperial Irrigation District Board of Directors approved regulations for the equitable distribution of water based on a straight-line method of apportionment on December 18, 2007, with these regulations applying in any year in which a supply/demand imbalance has been declared by the board, and,

WHEREAS, an anticipated SDI has been declared in 2009, meaning that the likelihood of IID experiencing an inadvertent overrun of its annual water order exceeds 50 percent, and,

WHEREAS, suggested revisions have been made to the regulations for equitable distribution based on public input and best management practices and the final set of recommended regulations have been offered for public review in workshops and regular board meetings, and,

WHEREAS, it is the IID board’s intention to institute the straight-line system of water apportionment in 2009 as a pilot program in which the regulations governing equitable distribution would apply to municipal and industrial users, feedlots and dairies, environmental resources and agricultural lands in the Imperial Valley, and,

WHEREAS, public input has been solicited, received and, to the extent possible, incorporated into the final documents that comprise the revised regulations for the equitable distribution of water now before the board; and,

WHEREAS, at the direction of the general manager, IID staff has prepared an environmental compliance report dated November 14, 2008 (Attachment “A”) that reviews the proposed revised regulations and concludes that no further environmental assessment is required for California Environmental Quality Act compliance purposes.

WHEREAS, the board wishes to approve the environmental compliance report and adopt the revised equitable distribution regulations.
NOW, THEREFORE BE IT HEREBY RESOLVED AS FOLLOWS:

1. The IID Board of Directors has determined that the revised equitable distribution regulations appropriately provide for the implementation of the equitable distribution plan as previously approved pursuant to Resolutions Nos. 22-2006 and 31-2007.

2. In order to comply with CEQA:
   a. The IID board has reviewed the environmental compliance report for the revised equitable distribution regulations, which concludes that the environmental impacts of the revised regulations have been sufficiently assessed pursuant to the negative declaration adopted by the IID board for the equitable distribution plan on November 28, 2006 and that no further environmental assessment is required pursuant to CEQA guidelines; and
   b. The IID board hereby approves and adopts the conclusions of the environmental compliance report for the revised regulations.

3. The IID board hereby approves the revised equitable distribution regulations and the general manager is authorized to continue to implement the equitable distribution plan in conformance with the revised equitable distribution regulations.

PASSED AND ADOPTED this 18th day of November, 2008.
ENVIRONMENTAL COMPLIANCE REPORT

FOR

REVISED REGULATIONS FOR EQUITABLE DISTRIBUTION PLAN

November 14, 2008

Background.

On November 28, 2006, the Board of Directors ("IID Board") of the Imperial Irrigation District ("District") adopted Resolution No 22-2006 approving the development and implementation of an Equitable Distribution Plan. As part of this Resolution, the IID Board directed the General Manager to prepare the rules and regulations necessary or appropriate to implement the Equitable Distribution Plan within the District. Pursuant to Resolution No. 22-2006, the IID Board also approved a Final Negative Declaration ("Negative Declaration") prepared for the Equitable Distribution Plan. The Negative Declaration was attached to the Resolution as Attachment A. As set forth in Resolution No. 22-2006, the IID Board determined that: (1) the Negative Declaration provided a sufficient assessment of the environmental impacts of the Equitable Distribution Plan pursuant to the California Environmental Quality Act ("CEQA"), and (2) there was no substantial evidence that the Equitable Distribution Plan will have a significant effect on the environment.

On December 18, 2007, the IID Board adopted Resolution No. 31-2007 approving "Regulations for Equitable Distribution Plan" ("ED Regulations"). Pursuant to Resolution No. 31-2007, the IID Board approved an Environmental Compliance Report prepared for the ED Regulations which was attached to the Resolution as Attachment B. The IID Board resolved that: (1) based upon the Environmental Compliance Report for the ED Regulations, which concluded that the environmental impacts of the ED Regulations were sufficiently assessed pursuant to the Negative Declaration adopted by the IID Board for the Equitable Distribution Plan on November 28, 2006, no environmental assessment was required pursuant to CEQA and the CEQA Guidelines; and (2) the conclusions of the Environmental Compliance Report were approved and adopted by the IID Board.

Proposed Revisions to ED Regulations.

The District has determined that certain revisions to the ED Regulations are desirable to simplify and clarify the administration of the Equitable Distribution Plan. Accordingly, "Revised Regulations for Equitable Distribution Plan" have been prepared, a copy of which is attached hereto as Attachment A ("Revised ED Regulations"). This Report has been prepared to document the environmental review of the proposed revisions to the ED Regulations for CEQA compliance purposes.
Environmental Determinations.

The District has determined that:

1. The Revised ED Regulations are consistent in all substantive respects with the Equitable Distribution Plan approved by Resolution 22-2006;

2. Based on a review of the Negative Declaration and the Initial Study included therein, and review of the 2007 Environmental Compliance Report for the ED Regulations, the environmental impacts of the Revised ED Regulations have been sufficiently assessed in the Negative Declaration; and

3. There are no substantial changes in the Equitable Distribution Plan, substantial changes in circumstances, or new information which would require the preparation of a subsequent negative declaration or other environmental assessment, pursuant to CEQA and Section 15162 of the CEQA Guidelines.

Discussion.

Section 15162 of the CEQA Guidelines provides that once a negative declaration has been adopted for a project, a subsequent EIR is not required unless the lead agency determines, on the basis of substantial evidence in light of the whole record, that:

1. Substantial changes are proposed in the project which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous negative declaration was adopted, shows that the project will have one or more significant effects not discussed in the previous negative declaration.

The Equitable Distribution Plan adopted by the IID Board on November 28, 2006 included the basic terms of a plan for the equitable apportionment of water in the event that, in any year, the expected demand for water is likely to exceed the supply expected to be available to IID (referred to as a "supply/demand imbalance" or "SDI"). The Negative Declaration did not consider the effects of the SDI itself, since the occurrence of an SDI is outside the control of IID. Rather, the Negative Declaration considered the effects of implementing the Equitable Distribution Plan if an SDI occurs.

Key elements of the Equitable Distribution Plan, as assessed in the Negative Declaration and approved by the IID Board, include the following:
• Each year, IID staff will forecast water demand and available supply for the following year. If the staff analysis concludes that forecasted water user demands will exceed the annual supply, then an SDI will be recommended and the allocation of water pursuant to the Plan will apply for the following year.

• Water shall be apportioned among agricultural users using the straight-line method of allocation.

• Transfer of the right to use such apportionments among agricultural users shall be permitted, subject to reasonable terms and conditions.

The 2007 ED Regulations implemented the key elements described above. Minor modifications to the Plan as anticipated in the Negative Declaration were incorporated in the ED Regulations; however, the District determined that these modifications did not result in environmental effects which would trigger the preparation of an additional environmental assessment pursuant to CEQA Guidelines Section 15162. (See 2007 Environmental Compliance Report and Resolution 31-2007.)

The proposed Revised ED Regulations make very few changes to the ED Regulations. For example,

• Certain defined terms were clarified based upon IID staff's experience in explaining and administering the ED Regulations since they were adopted. These revisions do not change the intent or environmental impacts of the ED Plan.

• The concept of "Supply of Last Resort" was removed from the Regulations to simplify the process for apportioning the available Water Supply upon SDI Declaration. These changes do not change the total amount of water allocated to agricultural lands so there will be no change in effects of the Equitable Distribution Plan on the environment.

Therefore, the District has concluded that the information provided in the Negative Declaration, including the Initial Study incorporated therein, provides a sufficient analysis of the Revised ED Regulations and that no further environmental assessment is required.
December 11, 2007
Revised November 18, 2008

Imperial Irrigation District

Regulations for Equitable Distribution Plan
1.0 **Purpose.**

1.1 **Purpose.** The Imperial Irrigation District ("District") is authorized by State law to adopt rules and regulations for the equitable distribution of water within the District. The District Board has approved a plan for the equitable apportionment of water (the "Equitable Distribution Plan") in the event that in any water year, the expected demand for water is likely to exceed the supply expected to be available to the District (supply/demand imbalance or "SDI" condition). Pursuant to Resolution No. 21-2008, the Board of Directors has adopted the following Regulations establishing the rules and procedures for the Equitable Distribution Plan.

2.0 **Terms and Definitions.**

2.1 **Agricultural Water.** Water used for irrigation and related agricultural purposes, fish farming, and algae farming.

2.2 **Agricultural Water User.** A District Water User that uses Agricultural Water.

2.3 **Available Water Supply.** Colorado River Water available to the District minus District system losses and efficiency conservation and minus 11,500 AF for miscellaneous Present Perfected Rights.

2.4 **Conserved Water Rate.** The rate specified in the District's Rate Schedule 13.

2.5 **Cropland.** Irrigable acreage within the District service area divided into fields based on the [proprietary] District Geospatial Data Base compiled from IID records, inspections and U.S. Consolidated Farm Service Agency (CFSA) Common Land Unit (CLU) standards.

2.6 **District.** The Imperial Irrigation District.

2.7 **District Fallowing Program.** A program administered by the District to create conserved water by entering into agreements with owners and lessees of agricultural property to fallow Cropland upon terms and conditions set forth in an Agreement for Fallowing Land in the District.

2.8 **District Water Exchange.** A program administered by the District to provide the means by which qualified Agricultural Water Users can offer to sell or buy water during an SDI Water Year pursuant to Section 4.0 herein.

2.9 **District Water User.** Any user of Agricultural or Non-Agricultural Water supplied by the District.

2.10 **Eligible Agricultural Acres.** Acreage that meets all the following tests:
a. Farmable Cropland defined as fields, based on the [proprietary] IID Geospatial Data Base compiled from District records, inspections and CFSA Common Land Units, greater than 5 acres, used for crop production, fish farming or algae farming.

b. Current with water availability charges and water bills

c. Connected to District water distribution system

d. Each field must (1) have been irrigated for crop production, fish farming, algae farming, leaching, or duck ponds, or under contract to the District Fallowing Program during each of the prior three years; or (2) be the subject of a notice of intent to farm accompanied by a crop plan; or (3) be the subject of other reasonably equivalent evidence of intent to farm during the SDI Water Year.

2.11 Farm Unit. As part of the Water Card process, Agricultural Water Users can aggregate some or all of their fields (leased or owned) into one account for purposes of managing their water accounts. The amount of apportioned water available on the leased fields included in the Farm Unit must be approved by the land owner of those fields through the Water Card process.

2.12 Environmental Resources Water. Water that the District agrees to provide to habitat or other resource areas pursuant to regulatory permits (excluding water to the Salton Sea for the IID Transfer Project) and water that the District provides pursuant to contract or voluntarily to habitat or other resource areas.

2.13 Non-Agricultural Water. Water used for municipal needs, industrial needs, feed lots, dairies, or Environmental Resources Water.

2.14 Non-Agricultural Water User. A District Water User that uses Non-Agricultural Water within the District.

2.15 Straight Line Apportionment. The method used to determine the amount of water available for Agricultural Water Users during an SDI Water Year based on a proration by Eligible Agricultural Acres pursuant to Subsection 3.2 e herein.

2.16 SDI Apportionment. The equitable apportionment of water among District Water Users pursuant to Section 3.2 herein.

2.17 SDI Declaration. A declaration by the District Board that the expected demand for District water for a future Water Year exceeds the expected District supply for the same future Water Year.

2.18 SDI Water Year. A Water Year for which the District Board has made an SDI Declaration.

2.19 Supply/Demand Imbalance (SDI). The imbalance created when expected demand for District water exceeds the expected supply.
2.20 **System Loss.** Either a direct loss or a reduction in water available for apportionment because of seepage, evaporation or other losses in the District distribution system.

2.21 **Unused Water Charge.** A dollar amount per acre foot set by the District prior to December 1 preceding an SDI Water Year. This dollar amount per acre foot will be used to calculate the charge for unused water pursuant to Section 4.6 herein. The Unused water charge for 2009 is $20 per acre foot.

2.22 **Water Card.** The common term for the "Certificate of Ownership and Authorization of Agent or Tenant" described in Regulation No. 3 of the District's Rules and Regulations Governing the Distribution and Use of Water. The Water Card provides information i.e., Cropland, name and address of owner and any lessees, APN, gate and canal providing water service, identity of person authorized to order water/receive notices from District, who is obligated to pay, and similar information.

2.23 **Water Year.** Each 12-month period that begins on January 1 and ends on December 31.

3.0 **Equitable Distribution.**

3.1 **Declaration/Termination of Supply/Demand Imbalance.**

   a. District shall track actual supply and demand during each Water Year and, based upon District staff's estimates of water supply and demand for the coming Water Year, determine whether the probability of total demand exceeding District's Colorado water supply is greater than fifty percent (50%). If the probability is greater than fifty percent (50%), then District may declare an SDI for the coming Water Year. Such SDI Declaration must be made on or before October 1 and can be withdrawn on or before December 31.

   b. District shall track actual supply and demand during the SDI Water Year. If cumulative consumptive use through June of the SDI Water Year is less than 1.575 MAF, District may terminate the SDI Declaration for that year.

3.2 **Apportionment of Supply.** Upon SDI Declaration, District shall apportion the Available Water Supply among the types of water users in the District using the following criteria:

   a. Municipal Users – Base amount of 2006 usage plus current District-wide average use per capita multiplied by the increase in population since 2006;

   b. Industrial Users – For existing contracts, estimated based on past use, not to exceed contracted amount and contract terms. For new contracts, estimated based on anticipated use, not to exceed contract amount and contract terms, taking into consideration the Integrated Water Resources Management Plan.
c. Feed Lots and Dairies – Estimated based upon past use and consideration of future changes;

d. Environmental Resources Water—Estimated based upon the amount reasonably necessary to achieve the purposes of the District's commitments, taking past use into account; and

e. Agricultural Lands – Straight Line Apportionment used. Subtract the estimated demand for categories a through d above from Available Water Supply, and then divide the remaining supply by the total number of Eligible Agricultural Acres pursuant to Subsections 2.10 a through c to determine the apportionment per Eligible Agricultural Acre. The amount apportioned to acreage that does not comply with Subsection 2.10 d will be placed in the District Water Exchange.

3.3 Non-Agricultural Water Users

a. District shall notify Non-Agricultural Users of their apportionment no later than December 1, prior to the beginning of the SDI Water Year.

b. Non-Agricultural Water Users shall be allowed to use that amount of water needed for reasonable and beneficial use. If a Non-Agricultural Water User exceeds the amount of apportionment quantified for its usage, the fee for the excess amount of water shall be the Water User’s standard water rate plus the Conserved Water Rate.

3.4 Agricultural Water Users.

a. Agricultural Water Users must complete and keep current the Water Card to receive an apportionment and delivery of water. As part of this process, Farm Units must be identified and kept current.

b. A written notice of the apportionment per Eligible Agricultural Acre and the number of Eligible Agricultural Acres per owner shall be sent to the land owner and the authorized representative no later than December 1 prior to the beginning of the SDI Water Year.

c. The owner or authorized representative of Eligible Agricultural Acres must accept or reject in writing some or all of the SDI Apportionment on a take-or-pay basis within sixty (60) days of the notice of the SDI Apportionment. Payment for the accepted apportioned water shall be made monthly based on actual use. On December 31 of the SDI year, any remaining amount of unused water part of the take-or-pay obligation will be included in the year end invoice.

4.0 District Water Exchange

4.1 Eligibility. Any Agricultural Water User can be a Buyer. Any Agricultural Water User with an SDI Apportionment may be a Seller.
4.2 Offers to Sell.

a. An Agricultural Water User with acres eligible for SDI Apportionment pursuant to Section 4.1 may send a "Notice of Intention to Sell" to the District indicating the number of Acre Feet of water being offered to the District Water Exchange for immediate sale.

b. Potential Seller must be current on his take-or-pay obligation.

c. An Agricultural Water User that has sent a Notice of Intention to Sell to the District may subsequently send a "Notice of Withdrawal of Offer to Sell". The District will honor the Notice of Withdrawal only if the water that was the subject of the original Notice of Intention to Sell has not been sold prior to receipt of the Notice of Withdrawal of Offer to Sell.

4.3 Offers to Buy.

a. An Agricultural Water User may send a "Notice of Intention to Buy" to the District that states the number of acre/feet of water he wishes to acquire from the District Water Exchange.

b. An Agricultural Water User that has previously sent a Notice of Intention to Buy may subsequently send the District a "Notice of Withdrawal of Offer to Buy." The District will honor the Notice of Withdrawal of Offer to Buy if the District has not previously purchased water from sellers to satisfy the Notice of Intention to Buy.

4.4 Priority of Execution of Sell/Buy Offers. Priority of offers to Sell and/or Buy will be based upon the date of receipt of the Notice of Intention to Sell or Buy. The District will periodically publish on its website the aggregate volume of water from pending Notices of Intention to Sell and/or Buy.

4.5 Payment for Water from the Water Exchange. After the District sells the water that Seller has offered for sale through his Notice of Intention to Sell, the Seller shall have no further take-or-pay obligation for payment of that water. If Seller’s water does not sell, he is responsible for his take-or-pay obligation. The buyer shall pay the District the total purchase amount due before receiving the purchased water. The total amount due is based on the Acre Feet of water purchased (not to exceed buyer’s Notice of Intention to Buy) multiplied by the purchase price defined as the current District agricultural water rate plus a processing fee of one dollar ($1) per Acre Foot.

4.6 Charge for Unused Water. If an Agricultural Water User buys additional water through District Water Exchange, then he must either: (a) use the purchased water during the SDI Water Year; or (b) offer the purchased water for sale through the District Water Exchange no later than October 1. If an Agricultural Water User does none of the above and has not used the total of purchased water plus accepted SDI Apportionment on his Eligible Agricultural Acres at the end of the SDI Water Year, such Agricultural Water User shall pay a charge to the District (in addition
to his take-or-pay obligation) equal to the Unused Water Charge multiplied by the amount in Acre Feet by which the Agricultural Water User's unused purchased water from the District Water Exchange plus unused accepted SDI Apportionment for the SDI Water Year exceeds five percent (5%) of the amount apportioned to the Agricultural Water User's Eligible Agricultural Acres.

5.0 **Interface With District Agricultural Land Fallowing Program.**

5.1 An Agricultural Water User that participates in District's Fallowing Program must assign to the District an amount of the Agricultural Water User's accepted SDI Apportionment equal to the amount of water conserved by fallowing for which the Agricultural Water User is contracted.

a. If the Agricultural Water User’s accepted apportionment is less than his Fallowing Program contracted amount, he may procure this difference from the following sources for which the Agricultural Water User qualifies pursuant to these regulations: the Agricultural Water User's accepted SDI Apportionment on other Eligible Agricultural Acres, or the District Water Exchange.

6.0 **Miscellaneous**

6.1 The General Manager is authorized and directed to do any and all things necessary to implement and effectuate these Regulations.

6.2 The General Manager shall provide notice of any changes or revisions to these Regulations to all District landowners and water users.