Imperial Irrigation District

Regulations for Equitable Distribution Plan

Approved December 18, 2007
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. ________, 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 other agricultural purposes.

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 as determined by U.S. Consolidated Farm Service Agency (CFSA), formerly the ASCS, measurements.

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 or lessees of agricultural property to fallow agricultural property 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.

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

2.10 **Eligible Agricultural Acreage.** Acreage that meets all the following tests:

a. Farmable cropland as defined by CFSA standards

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, 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 **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.

2.12 **Initial Apportionment.** The equitable apportionment of water among Agricultural Water Users pursuant to §§ 3.2 and 3.4a herein.

2.13 **Non-Agricultural Water.** Water used for drinking, cooking, bathing, showering, dish washing, maintaining oral hygiene and other municipal uses or for industrial, feed lot, dairy, fish farm or Environmental Resources Water.

2.14 **Non-Agricultural Water User.** A user of Non-Agricultural Water within the District.

2.15 **SDI Apportionment.** The amount of water available for Agricultural Water Users during a declaration of SDI, calculated as follows: Available Water Supply minus water set aside for Non-Agricultural use and other uses, divided by the number of Eligible Agricultural acres.

2.16 **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.

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

2.18 **Second Apportionment.** The reapportionment among Agricultural Water Users pursuant to § 3.4c herein of water not accepted from the Initial Apportionment.

2.19 **Supply/Demand Imbalance (SDI).** The imbalance created when expected demand for District water exceeds the expected supply.

2.20 **Supply of Last Resort.** A water supply set aside for eligible Agricultural Water Users as provided in § 3.5. The amount of Supply of Last Resort will be two percent (2%) of Available Water Supply plus any water not accepted by Agricultural Water Users after Second Apportionment.

2.21 **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.
2.22 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 re: agricultural acreage, such as 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 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 estimated supply among the types of water users in the District using the following criteria:

a. Supply of Last Resort will be two percent (2%) of Available Water Supply;

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

c. Industrial Users – Estimated based on past use, not to exceed contracted amount;

d. Feed Lots, Dairies, and Fish Farms, – Estimated based upon past use;

e. 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

f. Agricultural Lands – Subtract the estimated demand for categories a through e above from Available Water Supply, then divide the remaining supply by the total number of Eligible Agricultural Acres to determine the apportionment per Eligible Agricultural Acre.
3.3 District shall notify Non-Agricultural Users of their apportionment no later than December 1, prior to the beginning of the SDI Water Year. (For 2008, date of the notice will coincide with adoption of the regulations by the IID Board.)

3.4 Agricultural Water Users.

a. Agricultural Water Users must complete and keep current the Water Card. A written notice of the apportionment per Eligible Agricultural Acre and the number of Eligible Agricultural Acres per owner shall be sent to the owner, the authorized representative and any lessee identified in the Water Use Card no later than December 1 prior to the beginning of the SDI Water Year (the Initial Apportionment). (For 2008, date of the notice will coincide with adoption of the regulations by the IID Board.)

b. The owner or authorized representative of Eligible Agricultural Acres must accept or reject in writing some or all of the Initial Apportionment on a take or pay basis within sixty (60) days of the notice of Initial Apportionment. Payment for the accepted apportioned water shall be made monthly on a pro-rated basis over the remainder of the SDI Water Year.

c. Between January 1 and through the 60-day period for acceptance of the Initial Apportionment, Agricultural Water Users may purchase water from the District at the standard water rate. After the 60-day acceptance period for the Initial Apportionment, the amount of water purchased will be deducted from the Agricultural Water User’s SDI Apportionment and its payments shall be credited towards its take-or-pay obligation.

d. All Initial Apportionment water not accepted by Agricultural Water Users shall be reapportioned among Agricultural Water Users that accepted one hundred percent (100%) of Initial Apportionment (Second Apportionment). The Second Apportionment shall be made pursuant to the apportionment rules for the Supply of Last Resort.

e. Any apportioned water not accepted in the Second Apportionment shall be added to the Supply of Last Resort.

3.5 Supply of Last Resort.

a. Eligibility

1. Supply of Last Resort is only available to Agricultural acres with historic use, as determined by District, that is equal to or greater than the SDI Apportionment minus 1 AF/acre. For example, if the SDI Apportionment is 5.13 AF/acre, then Agricultural acres with historic use greater than or equal to 4.13 AF/acre will be eligible to receive water from the Supply of Last Resort.

2. Non-Agricultural Water Users will not have access to the Supply of Last Resort. However, 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 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 in the District's Rate Schedule 13.

b. Apportionment of Supply of Last Resort.

1. Quantity of Supply of Last Resort: The Supply of Last Resort shall comprise two percent (2%) of Available Water Supply for the SDI Water Year plus any amount of SDI Apportionment not taken by Agricultural Water Users after Second Apportionment is offered.

2. An eligible Agricultural field's apportionment of Supply of Last Resort shall be computed by District by: (1) Determine field apportionment factor by multiplying number of eligible acres by the field's historic use, not to exceed 7.5 AF/acre; (2) Sum up the total of field apportionment factors for all fields with eligible acres; (3) Determine each eligible field's apportionment of Supply of Last Resort by multiplying the amount of water (AF) in the Supply of Last Resort times the field apportionment factor, then dividing that amount by the total field apportionment factor times number of eligible acres in the field. (Sample calculation is attached as Exhibit A.)

c. Use of and Payment for Supply of Last Resort.

1. An Agricultural Water User may use its apportioned share of the Supply of Last Resort any time during the year after the District sends a notice to Agricultural Water Users meeting the eligibility requirements defined in 3.5(a) stating their apportioned share of the Supply of Last Resort as provided for in 3.5(b)(2).

2. An Agricultural Water User shall notify the District whether ordered water shall be deducted from its apportioned share of the Supply of Last Resort. An Agricultural Water User shall pay the standard water rate when water from the Supply of Last Resort is used.

d. Assignment of Supply of Last Resort to District

1. An Agricultural Water User must assign any unused portion of its apportioned share of the Supply of Last Resort to the District no later than the 10th business day of November.

2. The District shall make any assigned water it receives available through the District Water Exchange. Buyers of the water shall pay the standard water rate.

3. If an Agricultural Water User does not use or assign its apportioned share of the Supply of Last Resort, it shall pay a penalty equal to the amount of Supply of Last Resort unused multiplied by $20/AF.

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 § 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 from SDI Apportionment it 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, Buyer shall assume the obligation to make all future monthly take-or-pay payments for the purchased water and Seller shall have no further obligation. Buyer shall also pay the District an administrative fee determined by the District. Payment of the administrative fee shall be made upon receipt of the District’s notice that offer to buy has been satisfied.

4.6 Penalty for Unused Water. If Agricultural Water User buys additional water through District Water Exchange, then it must either: (a) use the purchased water during the SDI Water Year; (b) offer the purchased water for sale through the District Water Exchange; or (c) convey the purchased water to District at no charge no later than October 1. If Water User does none of the above and has unused water at the end of the SDI Water Year, such Agricultural Water User shall pay a penalty to District equal to $20/AF multiplied by the amount (in AF) by which the Agricultural Water User's unused purchased water plus unused accepted SDI Apportionment for the SDI Water Year exceeds five percent (5%) of its historic use.

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 SDI Apportionment equal to the amount of water conserved by falling for which the Agricultural Water User is paid.

a. The Agricultural Water User may procure the water to be assigned to the District from any of the following sources for which the Agricultural Water User qualifies pursuant to these regulations: the Agricultural Water User's Initial and/or Second Apportionment, the Supply of Last Resort 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.
EXHIBIT A

Sample Calculations of Agricultural Field Apportionment of Supply of Last Resort

Restatement of Regulation

Section 3.5(b)(2) defines an agricultural field apportionment of Supply of Last Resort as equal to $\text{SLR} \times \text{FAF}/(\text{TFAF} \times \text{EA})$

where $\text{SLR}$ = amount of water in AF in the Supply of Last Resort
$\text{FAF}$ = field apportionment factor, which is the number of eligible acres in the field multiplied by the field's historic use not to exceed 7.5 AF/acre
$\text{TFAF}$ = the total of all field apportionment factors for Eligible Agricultural Acreage eligible for an apportionment of the Supply of Last Resort as defined in Section 3.5(a)(1)
$\text{EA}$ = number of eligible acres in the field

Assumptions of Calculations

$\text{SLR} = 60,000 \text{ AF}$
$\text{TFAF} = 2,121,000 \text{ AF}$

### SLR Apportionment by Historic Use for Eligible Field with 80 Acres

<table>
<thead>
<tr>
<th>Historic Use</th>
<th>Historic Use Subject to 7.5 AF Limit</th>
<th>Field Apportionment Factor</th>
<th>SLR Apportionment/Acre</th>
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<tr>
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<td>330.4</td>
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</tr>
</tbody>
</table>

Field Apportionment Factor = Historic Use subject to 7.5 AF Limit x Number of Acres in Eligible Field: Column (2) multiplied by 80 acres
SLR Apportionment Per Acre = $60,000 \text{ AF} \times \text{Field Apportionment Factor}/(2,121,000 \text{ AF} \times 80 \text{ acres})$
ATTACHMENT B

ENVIRONMENTAL COMPLIANCE REPORT
ENVIRONMENTAL COMPLIANCE REPORT

FOR

REGULATIONS FOR EQUITABLE DISTRIBUTION PLAN

December 11, 2007

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.

Proposed ED Regulations.

Pursuant to the direction provided by Resolution No. 22-2006, "Regulations for Equitable Distribution Plan" have been prepared, a copy of which is attached hereto as Attachment A ("ED Regulations"). This Report has been prepared to document the environmental review of the ED Regulations for CEQA compliance purposes.

Environmental Determinations.

The District has determined that:

(1) The 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, the environmental impacts of the 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 ED Regulations implement the key elements described above. Minor modifications to the Plan as anticipated in the Negative Declaration have been incorporated in the ED Regulations; however, the District has determined that these modifications do not result in environmental effects which would trigger the preparation of an additional environmental assessment pursuant to CEQA Guidelines Section 15162. For example:

• The formulas for apportioning water to municipal users, industrial users and feed lots have been changed, but these changes provide for a more refined allocation which approximates the water needs of these users. Therefore, no significant environmental impacts are anticipated.

• The allocation for agricultural lands has been simplified to provide for a straight-line allocation, rather than a separate allocation for permanent crops as anticipated in the Negative Declaration. IID staff reviewed the historic water usage of fields with permanent crops (primarily trees) and determined that drip or micro irrigation is used on most of these fields and that, as a result, the water usage for these fields is less than the average for other agricultural land. Therefore, it is not anticipated that an apportionment to these fields on the same basis as other agricultural land will result in any impacts to permanent crops.

• The ED Regulations describe more specifically the allocation to Environmental Resources Water in order to allow the District to achieve the purposes of its environmental commitments and to consider past water usage. No significant environmental impacts are anticipated as a result of this allocation. This allocation does not affect the water required to be delivered to the Salton Sea as mitigation for the IID Water Conservation and Transfer Project.

• The Negative Declaration anticipated that there would be limitations on the maximum amounts of water to be transferred or acquired pursuant to the District Water Exchange and restrictions on the timing or frequency of transfers. These restrictions were not included in the ED Regulations. The result of this change is that allocated water can be more readily transferred. Therefore, this modification should reduce the impacts associated with an SDI and does not result in any significant environmental impacts.

• The ED Regulations include a penalty for unused water acquired through the District Water Exchange. This provision should assist in making unused water available for transfer to other users and ensuring that water is appropriately used in an SDI situation. No significant environmental impacts are anticipated as a result of this provision.
• The ED Regulations include provisions to coordinate the Equitable Distribution Plan with the District's fallowing program for the IID Water Conservation and Transfer Project. These provisions do not result in any significant environmental impacts.

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 ED Regulations and that no further environmental assessment is required.