December 11, 2007
Revised November 18, 2008
Revised April 7, 2009

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. 22-2008, 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, 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 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, 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.** Under the Water Card process, an Agricultural Water User can aggregate some or all of the fields (leased or owned) by the water user, and for paying for water under the master water account (Farm Unit). The Farm Unit can be divided into subaccounts for billing to various entities. Fields can be added to or removed from a Farm Unit at any time but a field can only be in one Farm Unit at a time. The primary purpose of a Farm Unit is to allow an Agriculture Water User to order water on any field within the Farm Unit as long as there is a remaining water balance for the Farm Unit greater than the water order. Since fields can be added to or removed from a Farm Unit at any time, the IID must maintain a water balance by field. If a field balance is less than the order for that field, the IID must be notified concerning which field(s) within the Farm Unit the water is being transferred from within 7 days of the water order or a prorated share from all fields with a remaining balance within the Farm Unit will be transferred to cover the shortfall. The amount of apportioned water available to the Agricultural Water User on the leased fields included in the Farm Unit must be approved by the land owner of those fields through the Water Card process. Water can be added to a Farm Unit by purchasing water from the District Water Exchange but the purchase must be designated by field within the Farm Unit. An Agricultural Water User can have multiple Farm Units but cannot exchange water between Farm Units. The priority of water use within a Farm Unit is 1) Accepted apportioned water authorized for use on the field, 2) Water from other fields authorized for transfer within the Farm Unit, and 3) Water from the District Water Exchange.

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, fish farms, 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 **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.

2.22 **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. FeedLots, Dairies and Fish Farms – 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 the 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 transaction processing fee derived from the estimated cost of administration of the Water Exchange and to be determined by December 1 prior to the beginning of the SDI water year.

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 falling 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.
ENVIRONMENTAL COMPLIANCE REPORT

FOR

REVISED REGULATIONS FOR EQUITABLE DISTRIBUTION PLAN

April 7, 2009

I.  Background

A.  2006 - Adoption of Equitable Distribution Plan and Final Negative Declaration

On November 28, 2006, the Imperial Irrigation District Board of Directors ("Board") adopted Resolution No. 22-2006 approving the development and implementation of an Equitable Distribution Plan ("EDP"). As part of this Resolution, the Board directed the General Manager to prepare the rules and regulations necessary or appropriate to implement the EDP within the District. Pursuant to Resolution No. 22-2006, the Board also approved a Final Negative Declaration prepared for the EDP. The Negative Declaration was attached to the Resolution. As set forth in Resolution No. 22-2006, the 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 EDP will have a significant effect on the environment.

B.  2007 - Adoption of Equitable Distribution Regulations

On December 18, 2007, the Board adopted Resolution No. 31-2007 approving "Regulations for Equitable Distribution Plan" ("EDP Regulations"). Pursuant to Resolution No. 31-2007, the Board approved an Environmental Compliance Report prepared for the EDP Regulations which was attached to the Resolution. The Board resolved that: (1) based upon the Environmental Compliance Report for the EDP Regulations, which concluded that the environmental impacts of the EDP Regulations were sufficiently assessed pursuant to the Negative Declaration adopted by the Board for the EDP 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 Board.

C.  2008 - Adoption of Revised Equitable Distribution Regulations and 2009 Apportionment Amounts

On November 18, 2008, the Board adopted Resolution No. 22-2008 approving revisions to the EDP Regulations as well as creating the 2009 Apportionment Amounts. Pursuant to Resolution No. 22-2008, the Board approved an Environmental Compliance Report dated November 14, 2008, prepared for the Revised EDP Regulations, which report was attached to the Resolution. The Board resolved that certain revisions to the EDP Regulations were desirable to simplify and clarify the administration of the EDP. Accordingly, Revised Regulations for Equitable Distribution Plan were prepared and
attached to the Resolution and Environmental Compliance Report. The Report was prepared to document the environmental review of the revisions to the EDP Regulations for CEQA compliance purposes.

In the 2008 Environmental Compliance Report, the Board determined:

1. The Revised EDP Regulations were consistent in all substantive respects with the EDP 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 EDP Regulations, the environmental impacts of the Revised EDP Regulations were sufficiently assessed in the Negative Declaration; and

3. There were no substantial changes in the EDP, 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.

D. 2009 - Adoption of Further Revised Equitable Distribution Regulations

On March 3, 2009 and March 17, 2009 the Board directed that further changes be made to the EDP Regulations:

1. Revise section 3.2c to state: "Feed Lots, Dairies, and Fish Farms."

2. Revise the definition of Farm Unit at section 2.11.

3. Remove the reference to Unused Water Charge at sections 2.21 and section 4.6.

4. Change the water exchange processing fee at section 4.5 to a qualitative description of a fee which will be determined by staff (at the same time staff sets the other data prior to Dec 1 preceding an SDI year), such fee to be derived from the estimated cost of administration of the District Water Exchange.

These changes are included in the attached Revised Regulations for EDP (revision date - 04/0709), a draft of which was reviewed and approved by the Board on March 17, 2009.

II. 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 EDP 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:

1. 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.

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

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

The 2007 and 2008 EDP Regulations implemented the key elements described above. Minor modifications to the Plan as anticipated in the Negative Declaration were incorporated in the EDP Regulations; however, 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 and 2008 Environmental Compliance Report and Resolutions 31-2007 and 22-2008.)

The newly Revised EDP Regulations make very few changes to the last version of Revised EDP Regulations. The changes are as follows:
1. **Revise section 3.2c to state:** "Feed Lots, Dairies, and Fish Farms." This change places "Fish Farms" back in the same apportionment class in which this item was located in the 2007 version of the EDP Regulations.

2. **Revise the definition of Farm Unit at section 2.11.** This change expands and clarifies the definition of a Farm Unit, allowing agricultural, under reasonable terms and conditions, to be permitted to transfer the right to use apportionments to other farm fields within the District service territory.

3. **Remove the Unused Water Charge at sections 2.21 and section 4.6.** This change involves the removal of a regulatory fee applicable to unused water obtained through the water exchange.

4. **Change the water exchange processing fee at section 4.5 to a qualitative description of a fee which will be determined by staff (at the same time staff sets the other data prior to Dec 1 preceding an SDI year), such fee to be derived from the estimated cost of administration of the District Water Exchange.** This is a change in the manner that a regulatory fee is calculated.

In summary, none of these revisions change the intent or environmental impacts of the EDP.

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 EDP Regulations and that no further environmental assessment is required.