IMPERIAL IRRIGATION DISTRICT
TEMPORARY LAND CONVERSION FALLOWING POLICY

1.0 Purpose.

This *Temporary Land Conversion Fallowing Policy* supplements the *Interim Water Supply Policy* (IWSP) and meets multiple policy objectives such as water transfer obligations, storage, 3.1 maf Quantification Settlement Agreement cap management, payback requirements, intentionally created surplus, mitigation requirements or other beneficial uses. This policy, pursuant to Water Code Section 1013, addresses projects that will remove land from agricultural production on a long-term temporary basis, and is intended to increase the local benefits of new non-agricultural projects, such as the renewable energy businesses being developed within IID's service area, by creating conserved water for transfer or for environmental mitigation purposes.

2.0 Background.

On September 23, 2008, the IID Board of Directors adopted a strategic plan, in which Objective B tasked the Water Department with the development of an integrated water resources management plan (IID Plan). The purpose of this plan objective was to assist IID in planning for and meeting future water resource demands.

On September 29, 2009, a draft IID Plan was accepted by the IID Board of Directors, which then directed staff to initiate a collaborative process to receive direct input from stakeholders and the public through the development of an *Integrated Regional Water Management Plan* (IRWMP) that conforms to California Department of Water Resources guidelines. One of the ideas explored in both of these planning efforts was to accommodate future water demands, in particular those related to the renewable energy projects that have been the focus of local economic development efforts. Unfortunately, the short-term nature of the county of Imperial's conditional use permits was not compatible with addressing long-term or permanent water supply demands; this idea therefore proved difficult to develop further.

At the general manager's direction, staff then began to develop the framework for a new fallowing program that could be used to supplement the IWSP and meet the same multiple policy objectives envisioned for the coordinated land use/water supply strategy. There are multiple proposed private projects that, if implemented, will temporarily remove land from agricultural production within the district service area. These projects, which include renewable energy and other non-agricultural projects, may need a short-term water supply for construction activities and longer-term water service for facility operation and maintenance, but conserved water will be created to the extent the water use for project construction, operation and maintenance is less than the water use would be if the land were to remain in agricultural production during that long-term temporary period.

The water demands for certain non-agricultural projects are typically less than that required for agricultural production; this reduced demand allows additional water to be made available for other users under IID's annual consumptive use cap. This also provides the district an opportunity to avail itself of the ability, under California Water Code Section 1013 and during the life of the QSA, to create conserved water through these projects as temporary land fallowing conservation measures. This conserved water can then be used to satisfy the district's conserved water transfer obligations and for environmental mitigation purposes.

3.0 Terms and Definitions.

3.1 The terms and definitions set forth in the IID *Interim Water Supply Policy for Non-Agricultural Projects* adopted on September 29, 2009 are hereby adopted for this IID temporary land conversion fallowing policy. Additional terms and conditions not found in the IWSP for non-agricultural projects are below.

3.2 Agricultural Production. Use of land for crop production or related agricultural purposes, fish farming and algae farming.

4.0 CEQA Compliance.

4.1 The county of Imperial is responsible for California Environmental Quality Act (CEQA) compliance for new non-agricultural projects within the unincorporated area of the county of Imperial. Alternatively, if the project is within the boundaries of a municipality, or if the project is subject to the jurisdiction or regulation of another agency (such as the California Energy Commission, for example), CEQA responsibility rests with that particular agency or municipality (land use/regulatory agencies). Non-agricultural projects must obtain various permits and approvals from the land use/regulatory agencies and locally such projects are typically sited in the unincorporated areas of the county, so the county serves as the lead agency for compliance with CEQA. The conditions for county approval of any particular non-agricultural project will vary according to the type of project, its location, size and other factors. The county customarily evaluates the potential environmental and economic impacts for each such project and determines whether the project under consideration will have unreasonable environmental or economic impacts in the county of Imperial. Unreasonable environmental or economic impacts, if any, require adequate measures imposed by the county to avoid or mitigate any such impacts.

4.2 As the raw water provider for the IID water service area, the district is a responsible agency under CEQA for non-agricultural projects and has the right to comment on draft environmental impact reports to ensure that the potential impacts of a proposed project on the environmental resources within IID's area of expertise are adequately assessed. The county's permitting and CEQA compliance process provide it and IID the opportunity to consult about each non-agricultural project individually to determine whether there are adequate measures to avoid or mitigate unreasonable economic or environmental impacts in the county of Imperial.

4.3 IID staff shall review the permitting and CEQA process at the county for any non-agricultural projects that would qualify as temporary land conversion fallowing policy projects in the IID service area that have not commenced construction to determine whether the county has approved the project with appropriate mitigation for unreasonable economic or environmental impacts in the county. If IID's review determines that the county has concluded that its permits or approvals include adequate measures to avoid or mitigate unreasonable economic or environmental impacts due to the temporary removal of land from agricultural production in the county of Imperial, then the requirements of Water Code Section 1013 have been satisfied.

4.4 If the county has not yet issued its approval of any particular non-agricultural project that would qualify as a temporary land conversion fallowing policy project, then IID staff will consult with county of Imperial staff, and await a determination from the Board of Supervisors that the given project includes adequate measures to avoid or mitigate unreasonable economic or environmental impacts in the county of Imperial. Any approval by the county of Imperial for such project shall be deemed a determination by the county that the project includes adequate measures to avoid or mitigate unreasonable economic or environmental impacts in the county of Imperial and the requirements of Water Code Section 1013 have been satisfied.

5.0 The Interim Water Supply Policy (IWSP).

5.1 All non-agricultural projects that require a raw water supply from IID must apply for water service pursuant to the IID's IWSP. While the majority of land in the IID water service area is currently used for agricultural production, certain non-agricultural projects may temporarily remove land from agricultural production. The number of proposed non-agricultural projects is anticipated to increase as the economy of Imperial County diversifies and develops to address new business opportunities. If it appears to IID, that the proposed water usage for a non-agricultural project applying for water supply will require less water than the historical water usage associated with the agricultural production on that land, IID will determine, in its sole discretion, that the proposed project is suitable and qualifies for temporary land conversion fallowing to create conserved water for transfer or environmental mitigation purposes under this policy.

5.2 The determination of how much water is conserved and made available for transfer or environmental mitigation purposes due to the temporary removal of land from agricultural production will be made using IID historical data to determine an appropriately calculated water conservation yield attributable to the land being temporarily fallowed under this policy. Any project water use on lands subject to this temporary land conversion fallowing policy will be deducted each year from the project's water conservation yield, with the difference between the two being the amount of water conserved and available for transfer or environmental mitigation purposes each year during the term of the QSA. IID may recognize as part of the historical data for the land any water conservation yield attributable to the land being temporarily fallowed under this policy.

5.3 To the extent the temporary removal of land from agricultural production creates conserved water, IID shall have total and absolute control over such conserved water for reasonable and beneficial use and subject to this policy, and under no circumstances shall a project developer or landowner have any right to control the use of such conserved water or to receive any payments or compensation for the conserved water.

6.0 Equitable Distribution Plan.

6.1 In the event an apportionment is implemented under the *Equitable Distribution Plan* (EDP), the EDP and any associated rules, procedures or protocols shall apply. Water conservation created by the land fallowing conservation measure resulting through the removal of the land from agricultural production on a temporary long-term basis under this policy will be automatically assigned to IID in accordance with the EDP.

7.0 Project Removal and Future Agricultural Water Service.

7.1 As a condition of any future agricultural water service, the land must be returned to agricultural production by the project owner/operator or landowner. Provided that the project has been removed from the land and all infrastructure facilities necessary for agricultural water service is in place to allow for the land to be returned to agricultural production, the landowner has the right to seek agricultural water service for the land consistent with then-existing IID water service rules, regulations and policies.

8.0 Agreements Not Prohibited.

8.1 Nothing in this policy prohibits an agreement between IID and a landowner for the recognition of conserved water created by the land fallowing conservation measure resulting through the removal of the land from agricultural production on a temporary long-term basis under this policy.