

**Statement of**

**The Metropolitan Water District of Southern California<sup>1</sup>**

**Regarding**

**Status of Implementing California's Colorado River Water Use Plan**

**Before**

**CHAIRMAN JIM COSTA**  
**California Senate**  
**Committee on Agriculture and Water Resources**

**CHAIRMAN DEAN FLOREZ**  
**California Assembly**  
**Committee on Water, Parks and Wildlife**

**Invited Congressional Representative**

**CHAIRMAN KEN CALVERT**  
**United States House of Representatives**  
**House Subcommittee on Water and Power**

**August 31, 2001**

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<sup>1</sup> Appearing before the Committees to present testimony and answer questions on behalf of The Metropolitan Water District of Southern California are Ronald R. Gastelum, Chief Executive Officer, and Dennis Underwood, Vice President.

The Metropolitan Water District of Southern California (MWD) appreciates and welcomes the opportunity to discuss the status and current progress in implementing California's Colorado River Water Use Plan (California Plan) with the Committees. We cannot overstate the importance of the California Plan to California, its economy and environment. Absent this effort and the accomplishments to date, a major statewide water crisis could occur today given the below-average water supplies this year and last for both the State Water Project and the Colorado River Basin.

Much progress has been made since the last time your Committees heard from us regarding the joint efforts of MWD, Coachella Valley Water District (CVWD), Imperial Irrigation District (IID), and San Diego County Water Authority (SDCWA) (collectively, the Agencies) efforts to ensure that California can live within its basic apportionment of Colorado River water. However, there are still a number of issues that need to be addressed, the most significant being environmental and endangered species compliance for the temporal impacts the Quantification Settlement Agreement water transfers have on the Salton Sea and the matter of fully protected species. This statement will (1) summarize the status and progress to date that have been made in implementing the California Plan, (2) discuss current problems being encountered in its implementation, (3) identify potential additional obstacles that could affect its implementation or effectiveness, and (4) highlight areas that the legislature or others could assist in its implementation.

At the outset, it should be stated that we believe there is no substitute for success in implementing California's Colorado River Water Use Plan; the statewide economic and environmental consequences of not achieving the California Plan's implementation are not acceptable. The core transfer of about 500,000 acre-feet per year from agriculture to urban and the Colorado River Interim Surplus Guidelines are vital to the California Plan's success. This includes the IID/SDCWA water transfer, the transfer of conserved water from IID and CVWD to MWD from canal lining projects and other means, the transfer of conserved water from IID to CVWD, and the transfer and exchange of water from MWD to CVWD. The components of the California Plan must be implemented in full compliance with state and federal environment and endangered species laws. The Agencies are committed to ensuring the timely implementation of these programs and recognize that there is no alternative, given California's requirement to live within its basic apportionment.

The Colorado River Interim Surplus Guidelines (Guidelines) provide a 15-year period for California to transition to live within the state's basic 4.4 million acre-feet annual apportionment of Colorado River water. Continuation of the Guidelines is contingent on California making specific measurable annual progress in implementing the California Plan, including the reduction of water use to meet specific benchmarks at three-year intervals during the transition period. The first water use reduction benchmark occurs in 2003 and requires California to reduce agricultural water use by 110,000 acre-feet. If California fails to meet these benchmarks, the Guidelines will be suspended.

While there is no flexibility in the timing to achieve the water use reduction benchmarks, we can help assure that they can be achieved. The Guidelines provide flexibility for California to prevent the Guidelines from being suspended. Flexibility in the timing of the implementation of each of the Plan's components will help ensure that the water use reduction benchmarks are achieved and to prevent suspension of the Guidelines, as well as the advancement of measures needed beyond the core transfers for California to live within its basic apportionment of river water. This flexibility is critical to address any unanticipated delays or modifications in the amount of reduced water use realized in implementing the transfers.

While there are some options to help ensure the timely implementation of the California Plan, we must caution that there are limits to the extent of flexibility and available options. The Agencies, the state, and federal government have negotiated long and hard over the past several years to achieve historic agreements that resolve long-standing disputes as to the priority and use of water, with particular attention to associated costs. This has also involved the assumption of additional risks and responsibilities by the Agencies and the commitment to spend billions of Agencies' dollars to allow California to meet its Colorado River water needs within its basic apportionment. To significantly change the conditions relied on in those agreements or to impose additional conditions and burdens beyond those required under current law at this late date could potentially upend these historic agreements.

It is worth pointing out up-front that the Agencies are justifiably relying on the work of the Lower Colorado River Multi-Species Conservation Program and the Salton Sea Reclamation Feasibility Study. These efforts will address a number of comprehensive issues, including the necessary environmental compliance and endangered species permits for the on-river and Salton Sea impacts of the California Plan's core agriculture-to-urban water transfers. Both of these efforts are significantly behind schedule and have required the Agencies to address the Plan's components separately, requiring additional work. Other matters have arisen that have also expanded the scope of our effort.

We must also not forget the magnitude and significance of this joint effort; we are reducing California's use of Colorado River water by about 800,000 acre-feet per year and must still meet the region's water needs. This will occur through the Quantification Settlement Agreement transfers, other cooperative water supply programs, storage and conjunctive use programs, and other programs and measures. These projects and programs will be complemented by the individual Agencies' efforts in regards to additional water conservation, water reuse, and local project development.

The Agencies have engaged and cooperatively worked with other Colorado River water users, other Basin States, federal and states agencies, congressional and state legislative members and staffs, Mexican interests, and selected environmental organizations to advance the implementation of the California Plan. The Agencies resolve and willingness to work with others can be demonstrated by the Guidelines themselves and the Inadvertent Overrun and Pay Back

Program for river diversions, both of which are different than originally envisioned by the Agencies and others but still achieve the desired results.

### **General Status and Progress to Date**

The current California Plan effort can be divided into 4 areas: legal documentation, environmental reviews, satisfaction of conditions precedent, and program and project implementation.

The **legal documentation** for the Quantification Settlement Agreement (QSA) has for the most part been completed, with the notable exception of the environmental cost sharing agreement and the State Water Resources Control Board (SWRCB) water transfer petition related documents. We don't foresee any problems in completing these documents within the required timeframe for their execution. The only obstacle or condition precedent affecting the timing of their execution is the completion of the environmental reviews and the SWRCB water transfer petition review process. Besides the QSA and related documents, other important components of the California Plan, such as the proposed Land Management, Crop Rotation, Water Supply Program between MWD and Palo Verde Irrigation District (PVID) and the proposed storage and conjunctive use programs, will require their own agreements.

With respect to the **environmental reviews** related to the QSA, our schedule calls for completion of all reviews by early 2002. This will allow for subsequent activities required for the effectiveness of the QSA to occur, notably the SWRCB water transfer petition review process. The QSA cannot become effective unless all conditions are satisfied by December 31, 2002. The environmental reviews tied directly to the QSA and the Guidelines include the Secretarial Implementation Agreement Environmental Impact Statement (EIS), the QSA programmatic Environmental Impact Report (EIR), the canal lining projects EIS/EIRs, the IID/SDCWA and the IID/CVWD/MWD option water transfers EIS/EIR, and IID Habitat Conservation Plan (HCP). The critical path for the environmental reviews has been and continues to be the IID/SDCWA EIS/EIR and IID HCP, or more specifically how to address the Salton Sea.

Except with regard to the Salton Sea, agreement on environmental mitigation and endangered species compliance will be reached on in-valley (area where conservation is to occur), on-river (where the change in diversion point will occur), and service area (where conserved water is to be used) for the core transfers. All of these environmental reviews rely on and tier off each other and consequently affect each other's completion timelines. The environmental reviews for the proposed storage and conjunctive use programs and other cooperative water supply programs are not part of the QSA and are not prerequisites for the QSA implementation or the continuation of the Guidelines.

The only major unresolved issues concerning federal and state environmental mitigation and endangered species compliance are: (1) how to address the core transfers' temporal effect on accelerating Salton Sea salinity increases by 1 to 8 years sooner than without the transfers, and

the corresponding effect on its fishery; and (2) how to address impacts related to California's fully protected species provisions.

With respect to the temporal effect of the water transfers on the Salton Sea, causes of increasing salinity and environmental decline extend far beyond any affect of the transfers. Congress recognized this in the 1998 Salton Sea Reclamation Act (Public Law 105-372) and directed that the Salton Sea reclamation options not frustrate or burden the water transfers and that the transfers be included in the baseline condition in the development of Salton Sea reclamation options, acknowledging the transfers' importance to California, the other Colorado River Basin states, and Mexico. Federal legislation, the Colorado River Quantification Settlement Facilitation Act (H.R. 2764), has been introduced by Congressman Hunter to address the Salton Sea issues and other matters important to the California Plan. The Agencies are also pursuing with federal agencies possible administrative actions to help facilitate implementation of the California Plan. Likewise, state legislation is required and state administrative measures are necessary to ensure compliance with California law.

The California Fish and Game Code identifies thirty-seven "fully protected species" and includes explicit provisions prohibiting "take" of these species. The California fully protected statutes have no federal equivalent. Representatives from California, Arizona, Nevada, Native American tribes, the United States, local regional water and power management agencies, and others have formed a partnership to develop a multi-species conservation program. This program, the Lower Colorado River Multi-Species Conservation Program (Conservation Program), is directed to protect sensitive, threatened, and endangered species of fish and wildlife and their habitats. The program will be implemented over a 50-year period following its adoption, and will ensure the compatibility of permitted uses of the river with the well being of the species and habitat. Implementation of both the Conservation Program and the California Plan may result in the incidental take of species listed under federal and California Law. Legislation has been introduced, AB 1561 (Kelley) and AB 985 (Florez), to specifically deal with the Colorado River related issues arising from the Fish and Game Code provisions.

The on-river habitat and backwater mitigation to address the impacts of 400,000 acre-feet per year of water transfers involving a change in point of diversion and location of use of have been agreed to by the United States Fish and Wildlife Service and will receive credit in the Conservation Program. Likewise, agreements will be in place for in-valley measures to mitigate impacts of the programs in the area where the water conservation will occur.

The October 1999 *Key Terms For Quantification Settlement Among the State of California, IID, CVWD, and MWD* identified 12 specific areas of **conditions precedent** that need to be satisfied or waived prior to execution of the QSA and related documents. This includes the completion of the related environmental reviews, implementing interim surplus guidelines, implementing an inadvertent overrun and pay back program relative to Colorado River water consumptive use, completing the SWRCB water transfer petition review process, and obtaining conserved water and a means to deliver the water for the San Luis Rey Indian Water Rights Settlement Act. The

critical path for satisfaction of conditions precedent is again the environmental reviews and the subsequent SWRCB water transfer petition review process for the IID/SDCWA and the IID/CVWD/MWD option water transfers. We believe the remaining conditions precedent have been or are achievable within the required time frame for executing the QSA and related documents.

As previously stated much has been accomplished in the implementation of the California Plan. The following is a list of the major accomplishments (including **program and project implementation**) to date that either relate to QSA or the overall California Plan or aid in their effectiveness and implementation:

- December 1988 IID/MWD Water Conservation and Use of Conserved Water Agreement and the associated 1989 Approval Agreement
- April 1998 Water Conservation and Transfer Agreement between IID and SDCWA
- August 1998 Water Exchange Agreement between SDCWA and MWD
- September 1998 State funding of \$235 million for canal lining and conjunctive use elements of the California Colorado River Water Use Plan
- October 1999 Key Terms for Quantification Settlement Agreement Among the State of California, IID, CVWD and MWD (a prerequisite for Secretarial approval of transfers)
- November 1999 Secretary of the Interior Final Rule on Offstream Storage of Colorado River Water (Interstate Banking)
- May 2000 California Colorado River Water Use Plan (a prerequisite for Secretarial Colorado River Interim Surplus Guidelines)
- December 2000 Public release of the draft QSA by QSA parties
- January 2001 United States F&WS Biological Opinion for Interim Surplus Guidelines and river impacts of the QSA
- January 2001 Record of Decision Colorado River Interim Surplus Guidelines
- May 2001 Interim Surplus Guidelines Agreement between Arizona and MWD
- Draft Interim Surplus Guidelines Agreement between Southern Nevada Water Authority and MWD

- QSA and related environmental reviews and negotiations
- Proposed Land Management, Crop Rotation, Water Supply Program between PVID and MWD
- Draft Coachella Valley Water Management Plan
- All American Canal and Coachella Canal lining projects environmental reviews, state funding and construction agreements
- Drafts of the QSA and all related documents
- MWD, in cooperation with others, has initiated development of potential Colorado River water storage and conjunctive use programs in:
  - Hayfield Valley
  - Chuckwalla Valley
  - Cadiz Valley
  - Lower Coachella Valley
  - Arizona
- Proposed Quantification Settlement Facilitation Act (H.R. 2764)
  - provide habitat enhancements for species using the Salton Sea
  - improve water conservation and river management

These programs and projects are being complemented by the individual Agencies efforts in developing additional water conservation, water reuse, and other local projects.

### **Current Problems and Potential Obstacles Affecting Implementation of the California Plan**

The Agencies are committed to executing the QSA, maintaining the Colorado River Interim Surplus Guidelines, and the timely implementation of the California Plan to allow California to meet its Colorado River water needs within its basic apportionment of river water. We have demonstrated our commitment by the remarkable progress that has been made to date, by our willingness to be flexible in the means to achieve the desired result, and by our willing to accept more than a fair share of responsibility, cost, and additional risks for benefits to the state that will be derived from the implementation of the California Plan. The potential problems for which we have direct control have been dealt with. **The single most significant problem affecting the implementation of the California Plan is how to address the temporal impacts of the QSA transfers on the Salton Sea. The single most significant problem affecting the effectiveness of the California Plan is the fully protected species matter.**

These are matters that are beyond our direct control to resolve. Accordingly, we have engaged diverse interests to help develop administrative and legislative means to resolve them. This has

led to the development and introduction of AB 985 and AB 1561 with respect to state legislation and H.R. 2764 with respect to federal legislation. H.R. 2764 also provides \$60 million for the first phase of Salton Sea restoration if Congress authorizes it prior to 2007 or for enhancement programs to protect endangered species habitat around the Salton Sea, and \$53 million for off-stream small re-regulating reservoirs and associated facilities to improve water conservation and river management, which will also provide improved water supply management options for Mexico. The Bureau of Reclamation estimated that last year about 300,000 acre-feet was lost from Colorado River reservoir storage because of the inability to re-regulate lower Colorado River flows.

The Salton Sea was created shortly after the turn of the century when the entire flow of the Colorado River was accidentally diverted into the Salton Sink for two years. It has been maintained since by Colorado River water diverted to irrigate the Imperial and Coachella Valleys in California and the Mexicali Valley in Mexico. Today the Sea is a primary resting place for migratory birds, including some endangered species. With a surface elevation nearly 220 feet below sea level, the only way water leaves the Salton Sea is through evaporation that leaves salts behind making today's Sea saltier than the ocean.

Reclamation of the Salton Sea is an issue that Congress and the state need to address as a separate matter. That was provided for in the 1998 Salton Sea Reclamation Act which directed the Secretary, in cooperation with the Salton Sea Authority and the Governor of California, to prepare a feasibility study of options to reclaim the Salton Sea and to present findings to Congress for its evaluation. In crafting options to reclaim the Salton Sea, Public Law 105-372 directed the Secretary to account for reduced inflows to the Salton Sea caused by transfers of water out of the Salton Sea Basin.

The conservation and transfer of water from the lining of the All American Canal and Coachella Canal is another QSA core transfer that provides water to MWD and for purposes of the San Luis Rey Indian Water Rights Settlement Act. All state funding and construction agreements will soon be in place for the implementation of these projects. It is essential that **state funding** remain available in order to complete the lining projects by the year 2006. The conserved water from the lining projects are essential to complying with the water use reduction benchmarks of the Colorado River Interim Surplus Guidelines. Supplemental state funding will probably be needed to complete the projects because of increasing costs and better cost estimates.

Another item beyond our control is prolonged below average hydrology. However, the effects of dry years can be addressed, in total or in part, by the development of dry-year and storage and conjunctive use programs. State partnering with the Agencies on Colorado River storage and conjunctive programs will provide for timely project implementation.



### **Areas Requiring Assistance by the Legislature and Others**

Most importantly, the legislature and the Congress need to expeditiously consider and pass proposed legislation to help facilitate the implementation of the California Plan. The Congress and the state need to address reclamation of the Salton Sea as a separate matter consistent with the 1998 Salton Sea Reclamation Act. The Agencies have all passed resolutions in support of expeditiously addressing the reclamation of the Salton Sea.

The state administration and legislature need to ensure that state funding for the All American Canal and the Coachella Canal lining projects remain available and to provide any supplemental funding that may be necessary.

The state should provide appropriate support to ensure implementation of adequate Colorado River storage and conjunctive use programs that allow California to meet its Colorado River water needs within its basic apportionment of river water.

It is requested that SWRCB provide for an expedited water transfer petition review process.

In concluding, MWD would like to restate our commitment to executing the QSA, maintaining the Colorado River Interim Surplus Guidelines for the full interim period, and implementing the California Plan to allow California to live within its basic apportionment. We thank the Committees for their continued support and interest in ensuring the timely implementation of the California Plan. We believe the Committees fully recognize the importance of the California Plan to California, the other Basin states, and Mexico.

MWD respectfully requests that the Committees help us to obtain the assistance that we have requested in our testimony. And finally, we would like to express our appreciation for the opportunity to appear before the Committees today to discuss these very important matters. We look forward to addressing any questions you may have.