

From: [Taylor, Sharon](#)
To: [SaltonSeaComments;](#)
CC: [Hosken, Charles J.; Grubaugh, Elston; Garber, Jeffrey M. Esq.; Spellman, Ellen;](#)
Subject: Comments on Salton Sea Ecosystem Restoration Program
Date: Tuesday, January 16, 2007 4:23:09 PM
Attachments: [20070116155713.PDF](#)

Sent on behalf of Ellen B. Spellman:

Please see attached.

Sharon Taylor
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-----Original Message-----

From: GS Admin
Sent: Tuesday, January 16, 2007 4:06 PM
To: Taylor, Sharon
Subject:

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Via Federal Express/Facsimile and Email

January 16, 2007

Dale Hoffman-Floerke
Salton Sea PEIR Comments
Department of Water Resources
Colorado River and Salton Sea Office
1416 9th Street, Room 1148-6
Sacramento, CA 95814

**Re: Comments on Salton Sea Ecosystem Restoration
Program**

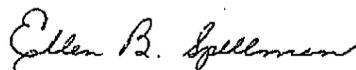
Dear Ms. Hoffman-Floerke:

I am enclosing with this letter Comments submitted on behalf of the Imperial Irrigation District ("IID") on the Salton Sea Ecosystem Restoration Program Draft Programmatic EIR ("SSRP PEIR"). These comments are submitted by IID as a stakeholder in the restoration project and as a Responsible Agency pursuant to CEQA Guidelines section 15096(d). We request that IID's Comments be included in the administrative record for the SSRP PEIR process.

IID's Comments are intended to facilitate the preparation of a thorough and accurate environmental assessment. We appreciate the opportunity to provide these Comments. We also wish to thank the Resources Agency and DWR and CDFG staff for their efforts in preparing the Draft PEIR. We look forward to working with you to prepare the final PEIR.

If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,



Ellen B. Spellman
Attorney for IID

EBS:slt
Enclosure

cc: Charles Hosken, General Manager (via email w/encl.)
Mr. Elston Grubaugh (via email w/encl.)
Jeffrey M. Garber, Esq. (via email w/encl.)

**COMMENTS ON
SALTON SEA ECOSYSTEM RESTORATION PROGRAM
DRAFT PROGRAMMATIC EIR**

Submitted by:

Imperial Irrigation District

January 15, 2007

Introduction.

Imperial Irrigation District ("IID") appreciates the opportunity to comment on the Draft Programmatic EIR ("PEIR") for the proposed Salton Sea Ecosystem Restoration Program ("SSRP"). IID supports restoration of the Sea and the broad legislative objectives which provide the framework for the SSRP.

Our comments focus on the compatibility of the PEIR Alternatives with the State legislation and the accuracy and sufficiency of the environmental assessment contained in the PEIR. Our comments also seek to evaluate the PEIR Alternatives in light of a number of more specific policies and goals which are important to IID and relevant to the selection of the Preferred Alternative.

These IID goals and objectives include the requirements that the restoration plan:

- Must preserve and protect IID's water rights and uses of water, and should not be used to facilitate or promote more water transfers out of the Imperial Valley.
- Must not restrict the use of the Salton Sea as a repository for IID's agricultural drainwater.
- Must not restrict IID's right to recapture and reuse agricultural drainwater or require any guarantee by IID of drainwater inflows to the Sea in the future.
- Must accommodate fluctuations in Sea elevation and salinity.
- Must recognize IID's limited responsibility and liability for environmental impacts and restoration costs pursuant to State legislation and IID's contracts with State agencies.
- Must allow for the conservation of water by efficiency improvements to enable farmers to farm the same amount of land with less water, and allow IID to switch, before 2018, from fallowing to efficiency conservation measures to implement the IID Water Conservation and Transfer Project ("Transfer Project").

- Must not impede IID's compliance with existing contractual obligations and permit requirements, especially those related to the "Transfer Project" and the Quantification Settlement Agreement (QSA").

Part 1: MAJOR ISSUES

This section describes certain major issues identified during our review of the PEIR.

1. Development of Preferred Alternative.

The PEIR indicates that the Preferred Alternative may not be identical to any of the eight Alternatives assessed in the PEIR and that the Components may be modified or re-assembled to create the Preferred Alternative. DWR's failure to recommend a Preferred Alternative, or even to provide a meaningful ranking of Alternatives, has resulted in a PEIR which is quite broad and unfocused. In addition to making comment difficult, this approach appears to encourage further change and development of restoration options. We understand that modifications have been made, and apparently continue to be made, to the Imperial Group plan (the basis for Alternative 4) and the Salton Sea Authority plan (the basis for Alternative 7). The Salton Sea Coalition has also indicated that it supports a hybrid Alternative different from the PEIR Alternatives.

IID does not object to reconfiguration of the Alternatives as long as it is intended to achieve Project objectives and/or to reduce environmental impacts. However, we are concerned about having the opportunity to comment on the development of the proposed Preferred Alternative prior to selection. Please confirm the process for accommodating comment by IID and others during this process. Of course, the scope of changes to the proposed restoration Project is limited by CEQA, unless DWR re-circulates a revised Draft PEIR for additional public review and comment [*see* CEQA Guidelines § 15088.5].

With regard to IID's role, we note that IID is not only a stakeholder in the restoration process, but also a Responsible Agency under CEQA Guidelines Section 15096. A Responsible Agency is defined as one having discretionary approval power over some portion of the project. It appears that IID's discretionary approval will be required to implement any of the restoration Alternatives, since they all anticipate acquisition of fee title to, or easement rights over, substantial lands owned by IID. Other features of the Alternatives directly involve IID facilities and operations and appear to assume modifications of existing IID contractual and permit obligations. Finally, if any (c)(1) or (c)(2) water is to be transferred by IID to DWR, IID must approve key aspects of this transaction, including the environmental assessment [*see* Part 1, Section 11 of these Comments, below].

2. Federal Feasibility Study.

The U.S. Bureau of Reclamation ("USBR") has been involved in Salton Sea reclamation/restoration studies at least since adoption of the federal Salton Sea Reclamation Act in 1998. Most recently, the Water Supply, Reliability, and Environmental Improvement Act of 2004 directed the Secretary of the Interior to complete a feasibility study on a preferred restoration alternative. It is our understanding that this Feasibility Study is being finalized by

USBR and will be released on January 23, 2007, approximately one week after close of the PEIR comment period. IID believes that the process for selection of a Preferred Alternative should permit concurrent public review and comment on both the PEIR analysis and the USBR Feasibility Study, in order to ensure that the decision is based on the best available information. Please confirm that the selection process will accommodate this review and comment.

The State legislation adopted to facilitate Salton Sea restoration requires the Resources Secretary to "use all available authority" to enter into a memorandum of understanding with the Secretary of the Interior to provide for federal participation in the SSRP [SB 317 (2003), adopting Fish and Game Code Section 2081.7(e)(1)]. Please explain what actions DWR has taken to facilitate coordination between the State and federal studies and federal participation in Salton Sea restoration. Please also explain how DWR expects to coordinate completion of the environmental review process under both CEQA and NEPA in order to allow federal participation.

3. Essential Components/Objectives.

IID maintains that the Preferred Alternative should include certain key Components, including the following:

3.1 Drainage Repository.

The Salton Sea must remain available for use as a repository for agricultural drainage, which is the long-standing, historic use of the Sea since the 1920s. This purpose is acknowledged in the federal Salton Sea Restoration Act and in the PEIR [at 1-3]. The criteria used to select the Preferred Alternative must ensure that this continued use of the Sea is accommodated and not materially impeded.

3.2 Air Quality Management.

The Preferred Alternative must include implementation of all feasible mitigation measures to address air quality impacts resulting from both shoreline emissions and construction emissions. This is an important concern for IID and its constituents, especially since air quality emissions are predicted in the PEIR to exceed state and federal standards around the southern Sea shoreline.

3.3 Early Start Habitat.

This Component, as assessed in the PEIR, appears to be beneficial under all Alternatives and should be implemented as part of the Preferred Alternative. In addition, IID recommends accelerating the necessary design study, environmental assessment and permit process for this Component so that it can be implemented as soon as feasible, and whether or not the SSRP has been fully approved and permitted [see Section 6 of these Comments below]. Based upon the PEIR, this Component would be constructed along the southern shoreline between -228 feet msl (the current Sea elevation) and -235 feet msl, and that it could be implemented before 2011 if land could be acquired by that time. IID requests an analysis of the earliest time period for implementation of this Component.

3.4 Freshwater Reservoir.

A Freshwater Reservoir proposed by IID has been included in Alternative 7, but only as an optional facility and not as an integral part of the SSRP. The PEIR fails to recognize that the Reservoir is a beneficial Component which can: (a) assist in moderating inflow and elevation changes; (b) mitigate air quality impacts by providing a water cover for exposed shoreline at the southern end of the Sea; and (c) mitigate degradation of freshwater habitat values and recreational opportunities at the Sea. IID requests that the Freshwater Reservoir be assessed as an SSRP Component for these purposes, that it be included in the Preferred Alternative, and that it be considered an SSRP cost.

4. Project-Level EIR.

The PEIR defers assessment of numerous Project design details to a subsequent stage which includes one or more "project-level assessments". These subsequent assessments will further evaluate "design inflows, biological criteria, locations of facilities, water demands of components, surface water elevations and areas, types of Air Quality Management needed on Exposed Playa, seismic risks, availability of construction material, and acquisition of easements or deeds for lands affected by restoration activities" [at page 3-1]. The PEIR states that the combination and location of components should be evaluated during subsequent analyses, and these project-level analyses would be used to determine "specific sizes, locations, and salinity objectives" based upon "more detailed analysis of inflows, bathymetry, water quality, geology, habitat, sediment quality, and land ownership" [at page 2-26]. The PEIR also identifies serious concerns about the feasibility of Components and the effectiveness of mitigation measures, but defers resolution of these issues until the project-level stage. These details affect the analysis of Alternatives, the identification of environmental impacts, the assessment of the significance of environmental impacts, and the level of mitigation of those impacts.

We are concerned about the PEIR's failure to address sufficiently the process for subsequent assessment of these important details. We request DWR to clarify and confirm that the subsequent project-level assessment will be a project-level EIR and related CEQA process.

We recognize that a "programmatic" EIR can be used to avoid subsequent environmental assessment, where the programmatic document has sufficiently assessed the impacts of one or more of the actions included in the program. However, this PEIR is a different type of programmatic document—it provides a broad, feasibility-level analysis in order to assess a wide range of Alternatives. The PEIR makes an effort to identify features of each Alternative which permit broad comparisons. In many cases, however, these features are identified by applying uniform assumptions to all Alternatives, rather than by detailed study. The gaps in the PEIR analysis are extensive, and, as a result, it is difficult to make the key determinations which CEQA requires.

CEQA requires that a proposed project be assessed in detail and that alternatives and mitigation measures be identified which can reduce the significant impacts of the proposed project. The PEIR does not include this level of assessment, and nothing less than an EIR can provide the appropriate process for completing such an assessment. IID will need the

opportunity to review the project-level EIR as a Responsible Agency and to comment effectively when relevant details are available, and we assume that review by other agencies and members of the public will be appropriate as well.

5. Interim Plan.

The PEIR appears to assume that each Alternative would be implemented in its entirety, although in Phases. The PEIR should address whether it is feasible or desirable for any Components to be separated and constructed on a stand-alone basis, if necessary--for example, if approvals or funding for full implementation cannot be obtained, or if the feasibility of certain Components cannot be demonstrated, or if natural disaster such as earthquake intervenes.

Also, given the substantial time period predicted for full implementation, the PEIR should address the risks and impacts of failure to fully complete the SSRP. The impacts of partial completion could vary among the Alternatives.

Based on the schedule included in the PEIR, restoration will be substantially delayed. The PEIR anticipates that seven years (from 2007 to 2014) will be required to complete the project-level environmental assessment, complete the final design, obtain permits and other approvals, and finalize construction documents. Construction is also phased and most Components are not scheduled for completion until Phase II (2020-2030), resulting in a further substantial time period before the facilities are operational and the benefits of restoration realized.

This schedule does not reflect the urgency conveyed by the State legislation authorizing Salton Sea restoration. If a feasible Preferred Alternative can be identified, IID recommends accelerating the design, assessment and implementation of Components on a faster schedule. The PEIR recognizes that certain Components (such as the Early Start Habitat and the Saline Habitat Complex) cannot be constructed until the Sea recedes. However, instead of simply waiting until recession occurs due to outside forces, the PEIR should consider early termination of delivery of mitigation water to the Sea and the transfer of (c)(1) and/or (c)(2) water to facilitate the early construction of beneficial shoreline Components [*see* Part 1, Section 6 of these Comments below].

The PEIR fails to address measures which could be implemented, and impacts which could be avoided, during the interim period prior to full implementation of the SSRP. As noted above, the PEIR proposes to delay certain shoreline Components until the Sea recedes without considering the advantages of accelerating recession. Further, as discussed in more detail in Section 7 of these Comments, below, the PEIR does not anticipate introducing any AQM measures until the mid 2020s. Instead, it proposes to wait while the Sea recedes in three separate increments:

- (1) During the period the shoreline recedes from -228 to -235 feet msl, which the PEIR attributes to "baseline" conditions, the PEIR assumes that the landowners will mitigate air quality impacts outside of the SSRP;

(2) During the period the shoreline recedes further from -235 to -248 feet msl), which the PEIR attributes to the Transfer Project, the PEIR assumes that Transfer Project air quality mitigation will be applied; and

(3) During yet another period of recession below -248 feet msl), while the SSRP Components are being implemented, the PEIR assumes that the landowners will again provide air quality mitigation.

This does not provide an acceptable plan for minimizing air quality impacts for the community surrounding the Salton Sea. Aside from the issue of who pays for what mitigation costs, there should be a plan, as part of the SSRP, for dealing with environmental impacts caused by the steadily degrading conditions at the Sea, as they occur, including both reduced wildlife values and public health issues. For example, if construction of the Early Start Habitat is accelerated, it would provide habitat for biological resources and, at the same time, reduce potential dust emissions from exposed shoreline emissions by providing water cover.

6. Acceleration of Components.

The PEIR anticipates that the Early Start Habitat will be constructed along the southern shoreline of the Sea between -228 and -232 feet msl, when the elevation recedes sufficiently [at page 3-32]. The PEIR indicates that the Early Start Habitat is intended to retain habitat values as those values in the Brine Sink decrease and to provide information that would assist in the design of the Saline Habitat Complex [at page 8-19]. The Early Start Habitat includes the development of flexible habitat cells and is intended to be designed so that affected shoreline can be converted to other uses in the future. The PEIR indicates that further assessment of this Component is needed but that it could be implemented "before 2011" if land required for implementation can be obtained [at page 3-6].

Given these purposes and design, IID believes that it will be beneficial to accelerate the environmental assessment, design and construction of the Early Start Habitat, so that construction of this Component can be commenced without waiting for final design and approval of other SSRP Components. This Component may also be sustainable and beneficial whether or not full implementation of other Components proceeds. In addition to facilitating the design of the Saline Habitat Complex, the Early Start Habitat could mitigate air quality impacts on exposed shoreline in the interim period prior to implementation of other Components.

7. Air Quality.

7.1 Mitigation of Impacts.

The State legislation authorizing the SSRP requires the preferred alternative to provide "the maximum feasible attainment" of three primary objectives, including the elimination of air quality impacts from the restoration project [SB 277 (2003), adopting the Salton Sea Restoration Act, Fish and Game Code § 2930 et seq.]. The PEIR acknowledges this objective [at page 1-2].

Nevertheless, the PEIR predicts significant air quality impacts for each of the Alternatives, as a result of both emissions from exposed shoreline and emissions from construction activities. These impacts vary in scale from one Alternative to another, but, for each Alternative, they exceed the impacts projected for the No Action Alternative by an amount that ranges from a factor of 5 to 200 times the No Action impacts. The amount of shoreline exposed varies under the PEIR Alternatives from 83,000 acres to 131,000 acres. The PEIR predicts that, due to wind conditions, air quality emissions will exceed state and federal standards along the southern shoreline of the Sea, within the Imperial Valley.

The PEIR also concludes that, although certain costly AQM measures are assumed to be implemented with each Alternative, the feasibility and effectiveness of mitigation measures are uncertain, for both shoreline and construction emissions. This is a serious concern for IID and Imperial Valley residents. In addition, although AQM measures are included in the cost estimates, these estimates do not include mitigation measures for the significant construction emissions which are predicted.

Based on these PEIR conclusions, IID maintains that all feasible AQM measures should be required for each Alternative. The PEIR should clarify that the SSRP will assume responsibility for shoreline exposed by the SSRP or for land acquired for SSRP purposes. Currently, the PEIR is vague and confusing on the extent of AQM included in the Alternatives; *see*, for example, the statements that Alternative 1 will include AQM below -230 feet msl, but there is "potential IID liability" for some portion [at page 3-63] and the statements that AQM below -230 feet msl would be "considered" for Alternatives 3 and 6 [at pages 3-67, 3-73]. In addition, we do not understand why the PEIR includes Alternatives which do not incorporate all feasible AQM measures (Alternatives 4-7)[*see* pages 10-29, 10-86]. Since both CEQA and the State legislation require that feasible mitigation measures be adopted to address significant impacts, what is the justification for constructing an Alternative which does not include them?

A key criterion for selecting the Preferred Alternative should be the extent to which the Alternative can reduce air quality impacts. Currently, the PEIR does not appear to suggest that any preference would be given to Alternatives which minimize these impacts. In addition, the PEIR should assess how siting and re-locating facilities, and other changes to the design and configuration of Alternatives, could enhance air quality mitigation. For example, since serious air quality impacts are predicted along the southern shoreline, the location of water, habit areas, or facilities which cover exposed shoreline in the south should be assessed and preferred.

The PEIR clearly indicates that, regardless of its assumptions regarding the emissiveness of exposed shoreline, it is uncertain what the impacts will be and whether and how they can be mitigated. The SSRP should develop a coordinated plan for accelerated study of the nature and extent of potential air quality impacts from exposed shoreline and the availability and effectiveness of feasible mitigation measures. The PEIR acknowledges that its analysis of shoreline emissions is based on limited studies and that further analyses are needed: to study the composition of fugitive dust and the conditions that cause stability/instability of the salt crust; to identify the best control mechanisms; and to improve emissions estimation, exposure and health impact analysis, and mitigation planning [at page 10-86]. Given the potential scale of the

problem, an "early start" study of the scope of air quality impacts and mitigation should be commenced. This study should also address the feasibility of mitigating construction emissions.

7.2 Impacts Attributable to Transfer Project.

The PEIR states, without qualification: "Implementation of the QSA and the related IID Water Conservation and Transfer Project would result in the additional exposure of playa between -235 and -248 feet msl." Similar statements appear in other places in the PEIR. Please clarify that this is an estimated amount of exposure based upon modeling conducted for the Transfer Project and the PEIR. The Transfer Project is likely to result in exposed shoreline as a result of water conservation activities included in that project, but the impacts of the Transfer Project have not been legally defined by an area on the ground between elevations -235 and -248 feet msl.

7.3 Responsibility for Air Quality Mitigation.

Similarly, the PEIR is misleading in describing the responsibility for air quality mitigation by reference to exposed shoreline in fixed elevation increments around the Sea. That is, the PEIR states that the Transfer Project will be responsible for air quality mitigation on exposed shoreline between -235 and -248 feet msl and that landowners will be responsible for air quality mitigation on two increments of exposed shoreline above and below the Transfer Project increment—i.e., shoreline between -228 and -235 feet msl and below -248 feet msl [at page 10-37]. These statements convert hydrological projections of future conditions into fixed lines in the sand. While this device may assist the reader in understanding the expected extent of shoreline exposure, it is still based upon modeling and estimates and is not a legal basis for assigning mitigation responsibility.

Moreover, the PEIR assumes that the landowner and Transfer Project increments will be exposed first, and that the SSRP can avoid implementation of any AQM measures until the mid 2020s. This analysis is apparently designed in part to delay and reduce mitigation costs for the SSRP.

We call to your attention that, in addition to limitations on Salton Sea restoration costs and QSA mitigation costs established by State legislation for IID's benefit, Section 1013 of the State Water Code exempts IID from liability for effects in an around the Salton Sea attributable to non-project water conservation [see SB 314 (2003), restating and amending Water Code § 1013].

IID requests that the PEIR include a better approach to air quality impacts and mitigation. We need a plan. As discussed above, the SSRP should develop, first, a coordinated plan for accelerated study of the nature and extent of potential air quality impacts from exposed shoreline and the availability and effectiveness of feasible mitigation measures. This study should be commenced in the early stages of the SSRP, so that the means of avoiding or mitigating air quality impacts will be available before the impacts occur. Second, the SSRP should develop a coordinated plan for implementing effective air quality mitigation as the shoreline recedes.

8. Land Acquisition.

The PEIR indicates that substantial land acquisition (by deed or easement) will be necessary to implement SSRP Alternatives. The Early Start Habitat requires 2,000 acres of land along the southern shoreline [at page 3-6], which is owned by IID. The PEIR assumes that implementation of the SSRP will require acquisition of the entire Sea bed below -228 feet msl [at page 3-2], which includes substantial acreage owned by IID, the federal government and the Torres Martinez Tribe.

The PEIR fails to analyze the feasibility of such land acquisition and defers this analysis to the subsequent project-level studies. With respect to IID land, the PEIR simply assumes that it will be available [at page 2-26]. The PEIR also fails to include land costs in the cost estimates prepared to evaluate the Alternatives. IID's obligation to fund restoration costs is capped [see Part 1, Section 10 of those Comments below], and IID is not required to contribute land to the restoration process for free. The PEIR also fails to indicate any schedule for land acquisition. The PEIR seems to assume that IID will hold its land, assume liability for air quality mitigation, and then turn it over to the SSRP in phases as it is needed for restoration. IID requests that the PEIR provide a cost and feasibility analysis and a plan and schedule for acquisition of land from third parties.

9. Consistency with Transfer Project/QSA.

9.1 Transfer Project/QSA.

As used in these comments, the "Transfer Project" means the IID Water Conservation and Transfer Project, as assessed in the Final EIR/EIS dated June 2002, as modified and supplemented by the Addendum thereto dated September 2003. The Transfer Project includes a proposed Habitat Conservation Plan ("HCP") which provides mitigation for impacts of the water conservation activities on biological resources within the Imperial Valley and the Salton Sea. IID is the CEQA Lead Agency for implementation of the Transfer Project. The Transfer Project includes all obligations of IID under the Quantification Settlement Agreement ("QSA"). The Transfer Project was approved by IID concurrently with the QSA. The Transfer Project is a component of the QSA as assessed in the Final Program EIR for the QSA dated June 2002, as modified and supplemented by the Addendum thereto dated September 2003.

9.2 HCP/NCCP.

IID is currently processing the approval of the HCP as a combined HCP/NCCP under both Section 10 of the federal Endangered Species Act ("ESA") and under the state Natural Community Conservation Planning ("NCCP") Act [Fish and Game Code § 2800 *et seq.*]. The PEIR states that the potential conflict or consistency of SSRP Alternatives with the HCP/NCCP is not addressed, because the HCP/NCCP has not been finally adopted [at page 8-18].

IID objects to this cavalier dismissal of the proposed HCP/NCCP given its key function to address impacts of the Transfer Project on the Sea. The conditions allowing the take of fully-protected species in connection with the Transfer Project were specifically addressed in

the State legislation designed to implement both the QSA and the SSRP [*see* SB 317 (2003), adopting Fish and Game Code Section 2081.7]. This legislation evidences the importance of the HCP/NCCP to State objectives by requiring the development and implementation, in cooperation with State and federal agencies, of an adaptive management process that substantially contributes to the long-term conservation of the species for which take is authorized.

In addition, it is misleading to suggest that the HCP has not been adopted. The HCP/NCCP will be substantially consistent with the Draft HCP assessed as part of the Transfer Project and attached to the Final EIR/EIS certified in June 2002. The conservation/mitigation measures set forth in the Draft HCP have been adopted: (a) by IID as CEQA mitigation measures, (b) by the SWRCB as conditions to its Order approving the Transfer Project, and (c) by CDFG as conditions to its CESA Permit. As a result, implementation of the Draft HCP is an approved and integral part of the No Action Alternative. IID has spent substantial sums both to implement provisions of the Draft HCP and to finalize the NCP/NCCP. Substantial consultation with THE California Department of Fish and Game ("CDFG") and the U.S. Fish and Wildlife Service ("USFWS") has occurred and is ongoing regarding the final details of the plan. The delay in finalizing the HCP/NCCP is substantially attributable to the State's requirement that the document satisfy more expansive criteria for HCPs required under the NCCP Act. The proposed HCP/NCCP includes numerous measures for the protection of biological resources deemed important to the restoration effort (such as pupfish). Virtually every NCCP Planning Agreement requires the participating agencies to consider the effects of its interim actions on its ability to implement the proposed NCCP, so we fail to understand why the State has concluded that it does not have to assess the effects of its restoration activities on the proposed HCP/NCCP. IID is particularly interested in interrelationships between its proposed measures and restoration activities which could produce enhanced benefits, reduced costs, or accelerate implementation.

9.2 Significant Impact Determinations.

The PEIR assesses the significance of the No Action Alternative for each resource area. The most prominent "project" included in the No Action Alternative is the Transfer Project. The No Action Alternative, especially the Variability Conditions version, also includes a number of other conditions, events and activities outside the control of IID, which have the cumulative effect of reducing inflows and exposing Sea shoreline, according to the PEIR. The Transfer Project EIR/EIS appropriately evaluated the significance of impacts after applying required mitigation measures. Based upon our review of the PEIR, it is not clear: (a) whether the impact Tables in the PEIR assume implementation of the mitigation measures included as part of the Transfer Project; (b) whether the PEIR determinations of "Significant Impact" are made after application of those mitigation measures; and (c) whether the findings of "Significant Impact" applied to the No Action Alternative relate to the Transfer Project or other components of the No Action scenario. Please clarify so that we can determine whether the PEIR analysis is consistent with the significance determinations previously applied to the Transfer Project. This comment applies to significance determinations made with regard to Surface Water Quality, Biological Resources, Geology, etc., Air Quality, Land Use, Recreation, Cultural Resources, Paleontology, Noise, Visual Resources, Public Services and Utilities

10. Funding Plan.

The State legislation requires the restoration study to include a proposed funding plan to implement the Preferred Alternative [SB 377 (2003), adopting Fish and Game Code Section 2081.7(e)(2)]. Please clarify when this portion of the assessment will be completed.

The Funding Plan included in the PEIR [at page 1-11] is vague and uninformative as to whether and when sufficient funds will be available for any of the Alternatives. This is a serious concern in light of the very substantial sums indicated in the cost estimates for the Alternatives.

The only specific funds identified in the Funding Plan are four potential sources of funds from water agencies, which are provided for under the State legislation. IID and the other water agencies have entered into binding contractual agreements providing for the payment of the \$30 million contribution allocated to those agencies. Funds from the other three other sources are potentially unavailable. MWD is required to pay not less than \$20/acre foot for water received as "special surplus water", but MWD has not requested any such water and may never do so. IID is obligated to pay 10% of monies received by IID for additional water transfers, but the IID Board has indicated no interest in future water transfers out of the Imperial Valley. Finally, it makes no sense to include the proceeds of sale of (c)(1) and (c)(2) water from IID to DWR as a source of funds, since the PEIR declines to include these transfers as part of any of the Alternatives, on the basis of the impacts of the transfers on Salton Sea salinity and elevation [see Part 1, Section 11 of these Comments, below].

We confirm and reiterate the PEIR's reference to the funding limitations applicable to IID. The State legislation [SB 654 (2003), amending Section 1 of Chap. 617 (2002 Stats.) states unequivocally that:

“. . . no further funding obligations or in-kind contributions of any kind for restoration of the Salton Sea shall be required of the Imperial Irrigation District. . . . Any future state actions to restore the Salton Sea will be the sole responsibility of the State of California.”

The QSA Joint Powers Authority Creation and Funding Agreement ("QSA JPA Agreement"), Section 3.2 provides:

“Environmental Mitigation Requirements in excess of \$30 million
“or any funding obligation or in-kind contributions of any kind for restoration of the Salton Sea, including federal cost-sharing or other federal requirements, shall be borne exclusively by the State and sources other than [IID, CVWD, and SDCWA].”

It is not appropriate for the PEIR to rely upon any additional contributions by IID for restoration purposes, such as actions implementing TMDLs which advance restoration objectives, air quality mitigation for shoreline exposed by TMDL implementation measures, or transfer of lands for restoration purposes without appropriate compensation.

11. IID/DWR Transfers.

The PEIR describes the provisions of the State legislation authorizing the transfer of up to 1.6 million acre-feet of water from IID to DWR for sale by DWR to MWD [SB 317 (2003), adopting Fish and Game Code § 2081.7(c)]. The PEIR describes DWR's responsibility for mitigating certain environmental impacts related to transfer of the (c)(1) and (c)(2) water pursuant to the State legislation. However, the legislation has been supplemented by the terms of the contractual agreement executed by IID and DWR pursuant to the legislation, identified as "Agreement between the Imperial Irrigation District and the Department of Water Resources for the Transfer of Colorado River Water," dated October 10, 2003 ("IID/DWR Transfer Agreement"). The IID/DWR Transfer Agreement specifies in detail the governing terms and conditions and the obligations of the parties for mitigation.

The discussion of the potential water transfers from IID to DWR does not reflect the fact that the maximum available amount of (c)(2) water is 800,000-acre feet minus the amount of mitigation water delivered to the Salton Sea pursuant to the mitigation measures for the Transfer Project. IID will continue to make annual deliveries of mitigation water in accordance with the schedule required by the permits and approvals for the Transfer Project, unless and until all conditions precedent to the transfer of this water to DWR have been satisfied, including completion of environmental assessment and issuance of permits. The maximum amount of (c)(2) water available for transfer to DWR is the unused balance of the mitigation water at that time.

Based upon the IID/DWR Transfer Agreement, DWR is responsible for providing the required environmental assessment and for obtaining all required permits and approvals for this transfer. IID anticipated that, whether or not DWR elects to proceed with these transfers, the PEIR would include the environmental assessment necessary to permit the transfers pursuant to CEQA. We do not think the PEIR includes such an assessment and we ask DWR to clarify its intent. The required environmental assessment will likely tier off the Final EIR/EIS for the Transfer Project, as modified and supplemented by the 9/03 Addendum thereto, as well as the PEIR.

The 9/03 Addendum to the Final EIR/EIS for the Transfer Project describes the delivery of mitigation water to the Sea for a 15-year period as part of the Salton Sea Habitat Conservation Strategy included in the Draft HCP for the Transfer Project. It also describes the relationship between this water (referred to as the "Mitigation Increment") and the transfer of (c)(2) water to DWR and the subsequent environmental assessment which is required:

"In order for DWR to change the use of the balance of the Mitigation Increment at any time during the 15-year period during which it is committed to the Salton Sea pursuant to the refined Salton Sea Habitat Conservation Strategy, the following conditions must be satisfied, without any cost or liability for IID: (1) the Secretary of the Resources Agency, in conjunction with CDFG, DWR, the Salton Sea Authority, appropriate air quality districts, and the Salton Sea Advisory Committee, must have completed a restoration study to determine a preferred alternative for Salton Sea

restoration, as described in Section 2081.7(e)(1), together with the environmental assessments required for the restoration plan under applicable law; (2) the Secretary of the Resources Agency must have determined that the transfer of the Mitigation Increment balance is consistent with the preferred alternative for Salton Sea restoration, as required by Section 2081.7(e)(2)(C); (3) the Secretary of the Resources Agency (or DWR) must have completed and certified an appropriate environmental assessment of the impacts of conservation of the Mitigation Increment balance by IID (by conservation methods selected by IID) and of the use and transfer of the Mitigation Increment balance as proposed by DWR and also must have obtained all necessary governmental permits and approvals therefor (including, to the extent required, the approval of CDFG, USFWS and SWRCB), without the requirement for IID to provide any mitigation water to the Salton Sea in connection with the transfer of the Mitigation Increment balance; and (4) the Secretary of the Resources Agency (or DWR) must have assumed responsibility for all environmental mitigation measures required under the environmental assessments and the permits and approvals applicable to the conservation, use and transfer of the Mitigation Increment balance, including impacts on Salton Sea salinity; and (5) the Secretary of the Resources Agency (or DWR) must have relieved IID and the QSA participating agencies from, or have assumed, their respective obligations to implement the Salton Sea Habitat Conservation Strategy and other mitigation measures and permit conditions related to the Proposed Project that are facilitated by the delivery of the Mitigation Increment to the Salton Sea." [at 1-16]

The 9/03 Addendum also describes the subsequent environmental assessment required to transfer the (c)(1) water (referred to as the "Restoration Increment"):

"In order to acquire any portion of the Restoration Increment, however, the following conditions must be satisfied, without any cost or liability for IID: (1) the Secretary of the Resources Agency, in conjunction with CDFG, DWR, the Salton Sea Authority, appropriate air quality districts, and the Salton Sea Advisory Committee, must have completed a restoration study to determine a preferred alternative for Salton Sea restoration, as described in Section 2081.7(e)(1), together with the environmental assessments required for the restoration plan under applicable law; (2) the Secretary of the Resources Agency must have determined that the transfer of the Mitigation Increment balance is consistent with the preferred alternative for Salton Sea restoration; (3) the Secretary of the Resources Agency or DWR must have completed and certified an appropriate environmental assessment of the impacts of the conservation of the Restoration Increment by IID

(by conservation methods selected by IID) and of the use and transfer of the Restoration Increment as proposed by DWR and also must have obtained all governmental permits and approvals therefore; and (4) DWR must have assumed the responsibility for all environmental impacts, including Salton Sea salinity impacts, related to the conservation, use or transfer of the Restoration Increment, and the responsibility for performance of all mitigation measures for such impacts required under the environmental assessments and the related permits and approvals." [at 1-17]

Part 2: SPECIFIC TEXT COMMENTS

This Section includes comments on specific provisions of the PEIR text, in addition to the issues discussed above.

<u>Page Reference</u>	<u>Comment</u>
1-7	<p>The PEIR indicates that snags for roosting and nesting by fish-eating birds would disappear by 2020 as the Salton Sea recedes. This discussion does not acknowledge the mitigation measures required for the Transfer Project pursuant to the Final EIR/EIS and applicable permits. <i>See</i>, for example, CESA Incidental Take Permit No. 2081-2003-024-006 [at 78-80] which provides for the construction of at least two roost sites for brown pelicans along the Southern California coast and for the creation of roost structures to permit forage at the river and drain mouths in the Salton Sea. This permit condition provides:</p> <p style="padding-left: 40px;">"Because the restoration alternative adopted for the Salton Sea may affect the pelican, after the submission of the restoration study to the Legislature, IID may request to need and confer regarding the Condition of Approval pertaining to brown pelican. If in the sole discretion of the Department, it is appropriate to modify this Condition of Approval as a result of the restoration alternative adopted for the Salton Sea, this Condition of Approval may be modified with Permittee's consent."</p> <p>Please clarify the effect of the proposed Alternatives on these existing mitigation measures for the brown pelican.</p>
1-9	<p>Please explain the meaning of the last sentence of the section entitled "Water Transfers", which states: "The PEIR analyzes the impact of the transfer of water that is currently being used to mitigate impacts of the QSA on the Salton Sea ((c)(2) water) and describes the plan for the use of this water." As discussed in Part 1, Section 11 of these Comments, above, the PEIR does not include, as a Component of any of the Alternatives, a modified use for the mitigation water</p>

	currently being delivered by IID as part of the Transfer Project.
1-9	The PEIR acknowledges the requirement of the State legislation that the restoration study include "at least one most cost-effective, technically feasible alternative" [SB 317 (2003), adopting Fish and Game Code § 2081.7(e)(2)A] . Please explain where this legislative requirement is satisfied in the document.
1-11	As discussed above, the (c)(2) water will be less than the maximum amount of 800,000-acre feet. This will affect revenues from sale of that water, if it is acquired by DWR and conveyed to MWD.
2-4	The PEIR describes that implementation of the No Action Alternative would have an overall affect of reducing inflows to the Salton Sea as compared to Existing Conditions. It should be clarified that this overall effect (which is reflected in the projection of inflows of 795,000 acre-feet/year under the No Action Alternative – Variability Conditions), is an <u>estimate</u> or projection, and not a reflection of actual measured effects. The estimate assumes inflow changes caused by variable factors which are not typically described as a "project" for CEQA purposes (e.g., climate changes, changes in cropping patterns, etc.).
2-8	The statement that surplus water cannot be delivered to the Sea for the benefit of fish and wildlife is not accurate. <i>See</i> Revised Order WRO 2002-0013, issued by the State Water Resources Control Board ("State Board") approving the Transfer Project, which provides that IID may use Colorado River water for fish and wildlife purposes consistent with California law.
2-28,-29	The PEIR indicates that Alternative 4 (Concentric Lakes) is based on the Imperial Group's proposal and Alternative 7 (Combined North and South Lakes) is based upon the Salton Sea Authority's plan. We understand that both the Imperial Group and the Salton Sea Authority have modified the version of their plans assessed in the PEIR. Please clarify whether the effects of these changes have been sufficiently assessed in the PEIR to allow their consideration in the selection of the Preferred Alternative.
3-4	The PEIR assumes that the No Action Alternative includes AQM measures designed to mitigate impacts of the Transfer Project. The scope and cost of this AQM is determined in the PEIR using the same assumptions applied to the other Alternatives, for comparison purposes. However, the No Action Alternative literally means that the State will not be implementing activities under this scenario, including mitigation activities. Implementation of air quality mitigation pursuant to the permits and approvals for the Transfer Project is the responsibility of IID as the Lead Agency, subject to applicable permit conditions and reimbursement of costs pursuant to the QSA JPA Agreement.
3-10	Please clarify the meaning of this statement: "Under implementation of the QSA, there will be three actions that will be modified in the PEIR Alternatives." We understand that certain assumptions have been made with respect to the No Action

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	<p>Alternative to allow comparison with Alternatives 1-8. It is not clear, however, what changes to the Transfer Project/QSA are presumed to be made if restoration is implemented.</p>
<p>3-56</p>	<p>The PEIR states that the State of California "accepted responsibility for <u>some</u> of the environmental mitigation costs that exceed \$133,000,000.00" [emphasis added]. This sentence suggests more limitations on the State's responsibility than actually exist. Section 3.2 of the QSA JPA Agreement states:</p> <p style="padding-left: 40px;">"The Environmental Mitigation Cost Limitation and Salton Sea Restoration Limit have been established pursuant to subparagraph (1) of subdivision (b) and subdivision (c) of Section 3 of SB 654. The Authority shall have no power to incur any debt, liability or obligation that would directly or indirectly result in any liability to the CVWD, the IID or the SDCWA in excess of the Environmental Mitigation Cost Limitation or the Salton Sea Restoration Limit. The liability for any Environmental Mitigation Requirements in excess of the Environmental Mitigation Cost Limitation or any funding obligation or in-kind contributions of any kind for restoration of the Salton Sea, including federal cost-sharing or other federal requirements, shall be borne exclusively by the State and sources other than the CVWD, the IID or the SDCWA, except for restoration funding provided pursuant to the requirements of subdivision (c) of Section 2081.7 and subdivision (f) of Section 1013 of the Water Code."</p>
<p>3-56</p>	<p>The discussion of modification of AQM actions under the No Action Alternative is confusing. The 4-step Air Quality Mitigation Plan approved as part of the Transfer Project addresses impacts resulting from that project. In addition to requirements for study and monitoring, that Plan requires the implementation of feasible mitigation measures to address air quality impacts. Is the PEIR proposing an "expansion" of this level of mitigation, and, if so, is this simply for comparison purposes or for proposed implementation under specific Alternatives? As discussed above, current information does not support a definitive conclusion regarding the extent of exposed shoreline, the extent of emissive shoreline, or the extent of air quality mitigation needed to satisfy state and federal standards. We have recommended the acceleration of studies to provide supporting information, particularly the development of feasible mitigation measures. Until that occurs, it should be understood that the air quality scenarios projected in the PEIR are based upon estimates considered by the PEIR preparers as "worst case".</p>
<p>3-57</p>	<p>Please clarify whether the PEIR has considered the pupfish mitigation measures which are required to be implemented as part of the Transfer Project. The CESA permit conditions [at pages 98-102] require that an appropriate level of connectivity be maintained between pupfish populations within individual drains at the north and south ends of the Sea, that IID develop a detailed plan for insuring genetic interchange among the pupfish populations in the drains, and that IID</p>

	<p>maintain the current amount of potential pupfish drain habitat over the term of the permit. In addition, USBR is obligated to provide funding for siting and construction of a pupfish refugium pond. Please clarify how these measures are proposed to be modified and the degree to which they satisfy restoration objectives.</p>
<p>3-61, 5-26</p>	<p>We recognize that the function of the inflow assumptions for the No Action Alternative-Variability Conditions is to reflect a range of variability, in order to facilitate the modeling of possible future conditions. However, IID does not endorse the PEIR's description of specific future actions which presumably support future inflow reductions, or the degree of reduction attributed to these actions, or the likelihood thereof, including the descriptions at 3-61, 5-26, H2-41, H2-55 and H-56 of Appendix 42. For example, we do not agree with the statement on page 5-26 that implementation of the AAC Lining Project will result in reduced New River flows due to reductions in agricultural return flows and groundwater recharge in the Mexicali groundwater basin. The PEIR itself concludes that the potential for reduced inflow to the Salton Sea caused by reduced seepage flows in the Mexicali Valley is speculative (<i>see</i> pages 4-10 and H2-54). The Groundwater Study performed by Tetra Tech for the AAC and Coachella Canal Lining Projects also concludes that lining the AAC would have no impact on the New River since it is too far east and any impacts would be intercepted by the Alamo River drainage basin. We question whether there is sufficient support for the projected inflow reduction due to TMDLs described on page H2-41 and H2-55. We also question deriving inflow reductions from USBR's 2003 effort to reduce IID's diversions, referred to on pages H2-56 and -57.</p>
<p>3-79</p>	<p>The heading of this section ("Evaluation of Transfers Allowed under the Quantification Settlement Agreement") is misleading. The section does not evaluate transfers allowed under the QSA; rather, it describes only the mitigation water to be conveyed by IID to the Salton Sea and the potential water transfers from IID to DWR.</p> <p>As discussed above, the conservation and delivery of the 800,000 acre-feet block of mitigation water has been fully assessed and is required under existing permits and approvals for the Transfer Project. The IID/DWR transfers are authorized by the State legislation and the conditions applicable to these transfers are specified in the IID/DWR Transfer Agreement. However, the effects of these transfers are not assessed under the environmental documents applicable to the Transfer Project. DWR must complete all environmental documentation and obtain all permits necessary to complete these transfers.</p>
<p>3-80</p>	<p>Footnotes to Table 3-13 on page 3-80 <u>incorrectly</u> indicate the method of conservation for (c)(1) and (c)(2) water. The mitigation water delivered by IID to the Sea is generated by fallowing; however, if the balance of this block of water is conveyed to DWR as (c)(2) water, IID has the right to select the conservation method pursuant to the IID/DWR Transfer Agreement (so that it can be generated by efficiency methods). Similarly, IID has the right to select the conservation methods for all of the (c)(1) water conveyed to DWR.</p>

3-89	<p>The PEIR states that transfer of the (c)(1) and (c)(2) water "was not considered under the No Action Alternative". Please clarify that these transfers are not appropriately included in the No Action Alternative because: (1) they are only allowed, under the terms of both the State legislation and the IID/DWR Transfer Agreement, if determined to be consistent with the preferred alternative for Salton Sea restoration; and (2) they have not been assessed and permitted so as to permit implementation under the No Action Alternative.</p>
3-86 et seq.	<p>Table 3-15 compares the impacts of each Alternative against both the Existing Conditions and the No Action Alternative. The determinations of level of impact are a very important part of the assessment required by CEQA. We request a number of clarifications regarding this analysis.</p> <p>How do the Existing Conditions (apparently defined by data from 1950 to the present, according to the PEIR at page 6-6) vary from the No Action Alternatives? Are the PEIR determinations regarding the level of impacts for the Alternatives based on a comparison of the Alternatives to the Existing Conditions or to the No Action Alternative? Which No Action Alternative is used for this Table (CEQA Conditions or Variability Conditions)? Please explain why this Table does not incorporate required mitigation measures and, instead, uses a concept of "Next Steps", including additional studies. Do the significance determinations assume implementation of all feasible mitigation measures? Do the comparisons to the No Action Alternative assume implementation of all mitigation measures required for the Transfer Project?</p>
4-8	<p>The PEIR states that the "Related Projects" summarized in Table 4-2 would affect the Salton Sea ecosystem or alternatives. However, the PEIR concludes at page 4-10 that the AAC Lining Project will not affect the Salton Sea; therefore, this project should be deleted from Table 4-2 as a Related Project.</p>
4-13,-14	<p>Several corrections need to be made to the description of the Transfer Project.</p> <p>The term of the Transfer Project/QSA is "up to" 75 years.</p> <p>The original IID/SDCWA Agreement was modified by the provisions of the QSA and implementation of the Transfer Project in conformance with the QSA was approved by the IID Board in October, 2003. The Transfer Project is assessed in the Final EIR/EIS dated June, 2002, which is identified in the PEIR; however, the Final EIR/EIS was supplemented by an Addendum thereto dated September, 2003 [see Part 1, Section 9.1 of these Comments above]. The State Board Order approving the Transfer Project is identified as Revised Order WRO 2002-0013, issued on December 20, 2002.</p> <p>The mitigation water required to be provided to the Salton Sea for a 15-year period is part of the Salton Sea Habitat Conservation Strategy ("SSHCS") included in the HCP for the Transfer Project; it is not referred to as the "(c)(2)" water. Rather, the</p>

	<p>(c)(2) water is the balance of the mitigation water if and when approved for transfer to DWR. The transfer of this water is not a part of the Transfer Project [see Part 1, Section 11 of these Comments, above].</p> <p>The 4-step Air Quality Mitigation Plan adopted for the Transfer Project is not limited or necessarily extended to the area located "below -235 feet msl". The Transfer Project is required to mitigate air quality impacts resulting from playa exposed as a result of that project.</p> <p>The Biological Opinion issued in December, 2002 is discussed out of sequence. The Salton Sea Habitat Conservation Strategy for the Transfer Project was developed in several steps. The Final EIR/EIS for the Transfer Project (certified in June 2002) proposed the delivery of mitigation water to the Salton Sea until 2030 pursuant to the Draft HCP. In July 2002, USBR initiated an alternative compliance process to obtain take authorization for federally-listed species using the Section 7 consultation process pursuant to the federal Endangered Species Act. This process culminated in issuance of the Biological Opinion ("BO") by USFWS in December 2002. The BO proposed a "15-Year Minimization Plan", developed in consultation with State agencies and designed to ensure that the Transfer Project did not materially affect the salinity of the Sea during the first 15 years of the transfers. In addition to requiring the delivery of mitigation water to the Sea during these 15 years, this Plan required a reduction in the volume of water transferred to SDCWA during these 15 years. The State Board Order approving the Transfer Project, issued in December 2002, also required the delivery of mitigation water for the first 15 years. After consultation with CDFG and other State agencies, IID subsequently modified the SSHCS to include the elements of the 15-Year Minimization Plan and to ensure consistency with the BO and the State Board Order. The revised SSHCS was assessed in the 9/03 Addendum to the Final EIR/EIS for the Transfer Project. It was included in the mitigation measures adopted by IID as part of its approval of the Transfer Project in October 2003. The delivery of mitigation water and the reduction in transfer volume included in the 15-Year Minimization Plan are an integral part of the QSA as approved in October 2003.</p> <p>IID is currently processing a combined HCP/NCCP pursuant to ESA Section 10 and the State NCCP Act, substantially incorporating the provisions of the Draft HCP attached to the Final EIR/EIS for the Transfer Project, as modified by the 9/03 Addendum. Approval of the HCP/NCCP is expected during 2007.</p>
4-14	<p>The PEIR indicates that the Transfer Project is "considered" under the Existing Conditions and the No Action Alternatives. Please clarify to what extent it is considered under the Existing Conditions and how that affects the assessment of the impacts of the SSRP Alternatives under Table 3-15.</p> <p>Please confirm whether any changes to the Transfer Project are anticipated in order to implement the Alternatives and, if so, where such changes are assessed in the PEIR.</p>

	<p>Although the PEIR includes an assessment of the impacts of the transfer of (c)(1) and (c)(2) water on Salton Sea salinity and elevation, it is not correct to say that "provisions for (c)(2) water" have been included in Existing Conditions and the No Action Alternatives. As discussed above, the IID/DWR water transfers have not been assessed or included in permits for projects properly included in Existing Conditions or the No Action Alternatives.</p>
4-16	<p>Please clarify that the QSA quantifies the amount of Colorado River water available to CVWD, IID and MWD only for the term of the QSA (up to 75 years).</p> <p>The description of the environmental documentation for the QSA should refer to a "Final PEIR" certified in June, 2002, as amended and supplemented by the Addendum to the Final PEIR dated September, 2003. The 9/03 Addendum addressed changes made to the QSA terms between certification of the Final PEIR and approval of the QSA project in October 2003.</p>
4-18	<p>The PEIR indicates that implementation of TMDLs will improve water quality in the drains leading to the Salton Sea (thus improving water quality in the Salton Sea, which facilitates restoration.) The PEIR also indicates that the No Action Alternative-Variability Conditions includes inflows which are assumed to be reduced due to methods used to comply with TMDLs. IID maintains that it is not equitable to assume that IID will absorb the cost of water quality improvements resulting from TMDL implementation and be responsible for exposed playa caused by inflow reductions relating to TMDL implementation, especially in light of the limitations on IID's liability for restoration costs established by the State legislation and the QSA JPA Agreement. Please explain why the PEIR assumes that these costs will be borne by IID.</p>
5-2	<p>The description of MWD's request to divert flows on the New and Alamo Rivers should be corrected to indicate that MWD has applied to divert "agricultural drain flows" that reach the New and Alamo Rivers. Such flows are not "return flows" because they do not return to the source from which they were diverted, the Colorado River. Such flows are also not "uncontrolled" tailwater, since tailwater flows result only after the managed and monitored flow of irrigation water ordered by the farmer across a field and subject to the regulations and monitoring of tailwater by the IID. Tailwater is recoverable and reusable by the farmer, and tailwater and drain flows may be conserved, recaptured and reused by IID despite MWD's application or obtainment of an appropriative right.</p>
5-13	<p>It is incorrect to assert that tailwater is not available for on-farm use except in fields with tailwater recovery systems. There are additional means of capturing and re-using tailwater, such as sequential or cascade irrigation systems.</p>
5-22	<p>The AAC Lining Project should not be listed as an action which could affect inflows to the Salton Sea—see the comment applicable to Table 4-2 above and the discussion in the PEIR at page 4-10.</p>

5-23	<p>Table 5-4 is confusing in identifying "Next Steps" for the No Action Alternative. These are described as if they were mitigation measures to be considered as part of the SSRP; however, the No Action Alternative assumes no action by the State pursuant to the PEIR. It is appropriate to identify that BMPs are included as mitigation measures under the permits and approvals for the Transfer Project, which would be implemented by IID. Mitigation for the Transfer Project does not cover all activities included in the No Action Alternative, however.</p> <p>This comment also applies to other Tables in the PEIR outlining Next Steps applicable to the No Action Alternative for various resource areas.</p>
5-26	<p>In the second sentence of the fourth paragraph under "Inflows and Climate Assumptions for No Action Alternative-Variability Conditions", change "inflows from the Imperial Valley" to "inflows from the Coachella Valley".</p>
6-5	<p>Please explain whether implementation of the Alternatives will result in any change in the designated beneficial uses for surface water in the Salton Sea (described in Table 6-2), or any portion of the Sea. If the SSRP reconfigures the Sea in ways that limit or prevent some of these uses, will the Water Quality Control Plan be changed? If the areas for beneficial uses are expanded as a result of the SSRP, will that affect the water quality requirements, including implementation of TMDLs, in drains and rivers leading to the Sea? If so, why are the costs of implementation of such measures not included in restoration costs?</p>
6-29	<p>Table 6-5 includes "Next Steps" for the No Action Alternative. Who is expected to implement these requirements under the No Action Alternative? This reference is especially confusing since the Table indicates either no changes associated with the No Action Alternative or that these changes were not analyzed. Why are no specific mitigation measures proposed in connection with the PEIR Alternatives? The same comment applies to the Next Steps assigned to the No Action Alternative on page 6-30.</p>
6-36,-37	<p>No specific mitigation measures relating to surface water quality are specified in the PEIR, although a number of actions are described as potential. A programmatic assessment is supposed to include mitigation measures where identifiable and feasible. Since Table 6-5 appears to show that Existing Conditions involve substantially degraded water quality, the findings of "L" (Less than Significant) attached to various PEIR Alternatives apparently means that the significant degradation continues but the impacts of the SSRP do not exacerbate these conditions. Is that correct? Why aren't mitigation measures required to reduce the existing level of significance, given the restoration objectives of the SSRP? We note that the State legislation requires that the preferred alternative for the SSRP include the maximum feasible attainment of three key objectives, one of which is the "protection of water quality" [SB 277 (2003), adopting the Salton Sea Restoration Act, Fish and Game Code § 2931(c)(3)].</p>

<p>8-19, et seq.</p>	<p>The discussion of impacts to biological resources identifies numerous potentially <u>significant</u> impacts relating to construction, operation and maintenance of Components included in the Alternatives. Table 8-4 identifies some of these impacts but appears to subsume a number of impacts in the conclusion that Alternatives will have an overall beneficial impact. While it is important to understand the beneficial impact of restoration Alternatives, the SSRP should be obligated to clearly identify and mitigate all significant impacts to the extent feasible, and appropriate mitigation measures must be specifically identified, assessed and imposed. We believe the PEIR defers too much of this important analysis to the project-level assessment.</p>
<p>8-24, et seq.</p>	<p>Table 8-4 should indicate to what extent the Next Steps associated with the No Action Alternative (on pages 8-24, 8-28, 8-34, and 8-35) describe measures already included as mitigation for the Transfer Project. For example, the Next Steps described on page 8-28 for the No Action Alternative do not reflect the measures which will mitigate impacts to pupfish under existing permits and conditions for the Transfer Project. Some, but not all, of the measures benefiting pupfish are explained on 8-38 in the text, but Table 8-4 remains misleading. If the No Action scenario is not correctly described, an accurate comparison to the PEIR Alternatives cannot be made.</p>
<p>8-39</p>	<p>Similarly, the measures included in the Transfer Project to mitigate the loss of roosting and nesting areas are not described.</p>
<p>8-40</p>	<p>Similarly, the mitigation measures for the pelican (roosting areas on the coast) are not discussed as part of the No Action Alternative, although they are included as mitigation measures under the Transfer Project.</p>
<p>8-41</p>	<p>The PEIR assumes that Sedimentation/Distribution Basins will be constructed under the No Action Alternative, as part of AQM actions implemented for the Transfer Project. The discussion of the construction impacts associated with these basins should indicate that IID is already obligated to mitigate construction-related impacts on roosting, foraging and nesting birds as part of the HCP for the Transfer Project, whether or not IID becomes obligated to construct these specific facilities. These mitigation obligations also apply to activities related to the pupfish channels. The PEIR description of the No Action Alternative incorrectly implies that numerous impacts will occur and will be not mitigated.</p>
<p>9-1, 9-18</p>	<p>The PEIR indicates that all of the Alternatives require earth materials (soil and rock) for construction and that the source of these materials is unknown at this time. Therefore, the PEIR does not address the potential impacts of these construction requirements and simply assumes that the materials will be provided from permitted quarries or other sites, deferring the detailed assessment to subsequent project-level analyses. Given the substantial variations in the scale of construction required under the Alternatives, the PEIR should identify the likelihood of substantial impacts and the variation of those impacts among the</p>

	<p>Alternatives, in order to facilitate a broad comparison and assist in the selecting of the Preferred Alternative.</p> <p>Please describe whether consultation with the Division of Safety of Dams (DSOD) has been conducted to a level where the PEIR can address the time period for DSOD approval of structures within their jurisdiction and the cost and feasibility of requirements which would be conditions to DSOD approval.</p>
<p>9-25</p>	<p>Do the designations of "Significant Impact" in Table 9-7 assume that mitigation measures have been incorporated into the Alternatives, including construction in accordance with the California Building Code and applicable design standards?</p> <p>Table 9-7 is misleading in its failure to differentiate the risks associated with the No Action Alternative as compared to the Project Alternatives. For example, a number of the Project Alternatives include substantial facilities within the Sea bed which could be affected by seismic events, whereas the facilities to be constructed with the No Action Alternative involve only AQM facilities and pupfish channels. There is a quantitative difference which is obscured, and the Table tends to understate Project impacts.</p>
<p>10-45</p>	<p>What is the basis for concluding that shoreline emissions will be over thresholds under the No Action Alternative in Phases III and IV? Does the PEIR assume that the impacts of the Transfer Project will not be mitigated in accordance with the 4-step Air Quality Mitigation Plan adopted for the Transfer Project? Or, is it anticipated that the exceedance will result from conditions other than the Transfer Project under the No Action Alternative? If the latter, how can the "Next Steps" (e.g., mitigation planning) be applied to No Action events or conditions which are not "projects" (such as climate changes, reduction of inflows from Mexico, etc.)? Are you assuming that the landowners will conduct project-level analyses, etc.?</p> <p>The same questions apply to the criteria relating to HAPs on page 10-46 and the two criteria on page 10-49.</p> <p>As noted above, it is confusing to us to have mitigation measures or Next Steps applied to the No Action Alternative without indicating who would implement these actions and the extent to which they are already provided for under the Transfer Project.</p>
<p>10-51</p>	<p>The EIR/EIS for the Transfer Project concluded that air quality impacts would be potentially significant and unavoidable because of uncertainties regarding the extent of the impact and the feasibility and effectiveness of mitigation measures. A key component of the 4-step Air Quality Mitigation Plan is an effort to eliminate some of these uncertainties as the Sea recedes (Step 2, described in the PEIR at 10-50). The PEIR apparently acknowledges the same, if not more, uncertainty but does not require any near-term effort to reduce those uncertainties in order to better evaluate the effects of the Alternatives, even though the Alternatives are predicted to have very serious consequences in excess of the No Action Alternative. See the</p>

	comments in Part 1, Section 7 above relating to air quality.
11-36	<p>We question the PEIR conclusions that the No Action Alternative (a) has a "significant impact" on land use because the salinity in the Salton Sea will increase above 40 mg/L, and (b) "would not provide compliance with the Imperial County General Plan". In this case the County General Plan states an objective but no specific plans for achieving it. Does a project have to advance an objective of a General Plan in order to avoid a finding of significant conflict with it?</p> <p>Based upon the Final EIR/EIS, the Transfer Project was not found to be inconsistent with the County General Plan. In fact, the Transfer Project was designed to encourage agriculture and to protect water rights essential to continued agriculture. Please clarify whether the PEIR is establishing a significant impact not identified in the final EIR/EIS for the Transfer Project.</p> <p>The other activities included in the No Action Alternative (such as climate and activities in Mexico) are not activities subject to County jurisdiction or control; therefore, there does not seem to be a reasonable basis for the PEIR determination of significant General Plan conflict as applied to those activities.</p>
13-11	<p>The PEIR concludes that the No Action Alternative will have a "Significant Impact" to recreational opportunities as a result of increased salinity. The No Action Alternative includes the effects of the Transfer Project as well as other conditions unrelated to that project. The Final EIR/EIS for the Transfer Project did not identify significant impacts to recreation with implementation of the Salton Sea Habitat Conservation Strategy and relocation of boat launching facilities. Please clarify whether you are not assigning a finding of significant impact to the Transfer Project inconsistent with the prior environmental documentation.</p>
15-10	<p>The "Next Steps" associated with impacts to archeological resources under the No Action Alternative describe implementation of Transfer Project mitigation measures from -235 to -240 feet msl. As discussed above, the specific land area bounded by these elevation figures might be a useful short-hand reference; however, the mitigation measures applicable to the Transfer Project apply to exposure actually caused by that project.</p>
16-12	<p>The same comment applies to the description of "Next Steps" in Table 16-3 relating to ground disturbing activities associated with the No Action Alternative.</p>
25-1, et seq.	<p>As discussed in Section 1 above, IID will have discretionary approval over portions of the SSRP which require acquisition of IID land, facilities or water services, any modifications to existing IID contract obligations or permit requirements which are required to implement the restoration project, and any Component of the restoration projects which anticipates transfer of the (c)(1) or (c)(2) water. As a Responsible Agency, IID will rely upon the PEIR and subsequent project-level EIRs to fulfill its responsibilities under CEQA.</p>