



IMPERIAL IRRIGATION DISTRICT

GENERAL MANAGER'S OFFICE • P. O. BOX 937 • IMPERIAL, CA 92251

October 18, 2006

State Water Resources Control Board
c/o Song Her, Clerk to the Board
1001 I Street
Sacramento, CA 95814



State Water Board Members:

Re: Comment Letter - 2006 Federal CWA Section 303(d) List

I am the General Manager for the Imperial Irrigation District (IID) in southern California. The purpose of this letter is to provide comments on the proposed 2006 federal Clean Water Act (CWA) Section 303(d) List of Water Quality Limited Segments for California (2006 List). IID has reviewed carefully the proposed 2006 List and would like to offer comments on two staff recommendations: 1) proposal to list the All American Canal (AAC) for salinity; and 2) proposal to list the Colorado River from Imperial Diversion Dam to the Mexican border for selenium.

A. All American Canal

As you are aware, the AAC was constructed as an authorized project under the Boulder Canyon Project Act of 1928, 43 USC 617 et.seq. The AAC started carrying water to the Imperial Valley in the early 1940's and has not been substantially modified since that time. On an annual basis the AAC provides for the delivery of about 3.4 million acre feet of water to the Imperial and Coachella valleys. Obviously, the AAC is one of the significant water lifelines feeding southern California.

The State Water Resources Control Board (SWRCB) proposes to list the AAC as water quality limited for specific conductance, sulfate, and total dissolved solids – all of which are salinity related. IID objects to the inclusion of the AAC on the proposed list on the basis of a number of points, including the points set forth in the October 17th letter from the Colorado River Board of California and the October 11th letter from the California Regional Water Quality Control Board. In order to keep this letter as brief as possible, IID hereby adopts the points set forth in those letters and in addition provides the following supplemental analysis.

Salinity levels in the Colorado River, and consequently the AAC, are set via an established administrative arrangement – As you are aware, the federal government is a participant in the setting of salinity standards on the Colorado River, and hence in the AAC, as a result of actions dating back to the 1960's and 1970's. In the 1960's the Republic of Mexico protested water quality conditions on the Colorado River largely due to then-existing return flows from the Wellston-Mohawk Irrigation District in Arizona. As a result of negotiations between the two countries, a Minute to the 1944 Mexican Water Treaty was executed in 1973 (Minute 242). Minute 242 was designed to address salinity problems in the lower reach of the river and to this day stands as the safeguard for Mexico when it comes to the level of salinity in the river delivered to Mexico at or above Morelos Dam.

Minute 242 provides that the salinity of the Colorado River water delivered to Mexico above Morelos Dam shall be no more than 115 ppm (plus or minus 30 ppm) US Count, over the annual average salinity of Colorado River water which arrives at Imperial Dam. Following execution of Minute 242 in 1973 Congress enacted the Salinity Control Act of 1974, 43 USC 1571 et. seq. In section 1594 of the Salinity Control Act Congress arranged for the establishment of the Colorado River Basin Salinity Control Advisory Council, which is a Federal Advisory Committee under federal law and serves to advise the Secretary of the Interior and other agencies (such as Agriculture and EPA) on matters related to the Salinity Control Program, especially in the areas of program promotion and federal funding.

At about the same time the seven Colorado River basin states established the Colorado River Salinity Control Forum (Forum) as a way for the seven states to coordinate in relation to the issues concerning salinity in the Colorado River and the setting of salinity control standards. The Forum provides advice to the Advisory Council and also prepares a triennial review of salinity control standards first adopted by the Forum back in 1975. The triennial review adopted by the Forum is submitted to the environmental quality agencies in each of the seven basin states, and those standards are then routinely adopted by the seven states as the salinity objectives for the states. Those objectives are then submitted by the states to US EPA pursuant to section 303 of the federal Clean Water Act – thus setting the state standards for salinity in that water body (the Colorado River) for the next three-year period.

In 2005 the Forum conducted its triennial review of the standards and adopted a report which updated the plan of implementation and reaffirmed the adequacy of existing numeric standards. The report is entitled "2005 Review – Water Quality Standards for Salinity – Colorado River System," dated October 2005. On February 1, 2006 that report was reviewed by the California SWRBC and by resolution no 2006-0007 the SWRCB officially adopted the findings and conclusions of the report, stating that:

- 1) The SWRCB approves the 2005 Triennial Review of the Colorado River salinity objectives and plan of implementation.
- 2) The SWRBC directs staff to submit the approved 2005 Triennial Review to USEPA pursuant to section 303 of the federal Clean Water Act.

The adopted numeric salinity criteria for the three stations on the lower main stem of the Colorado River are as follows (these numeric criteria are flow-weighted average annual total dissolved solids concentrations):

Below Hoover Dam	723 mg/L
Below Parker Dam	747 mg/L
At Imperial Dam	879 mg/L

In other words, the Forum has adopted 879 mg/L as the specific standard for salinity at Imperial Dam. This criterion has been adopted by the SWRCB and has now been submitted to the US EPA by California as the official California Colorado River salinity standard for that point on the river – which is the intake for the AAC. Importantly, since there are no waste discharges allowed into the AAC system the standard for the river at Imperial Dam is for all intents and purposes the standard set for the AAC. Minute 242 then links to the Imperial Dam standard by providing that the water delivered to Mexico, influenced by return flows below Imperial Dam, shall not exceed 115 ppm (plus or minus 30 ppm) above the 879 mg/L standard.

The detail set forth above is important to reflect the complex and historically-grounded arrangement that is in place to provide guidance for the setting of salinity standards on the Colorado River at Imperial Dam. And since the AAC takes water directly from the river at Imperial Dam, the standards set by the Forum and then officially adopted by California and the other states essentially sets the salinity standard for the water to be carried in the AAC to the Imperial and Coachella valleys.

IID does not assert that this arrangement necessarily legally preempts regulation of salinity standards by the SWRCB or the State of California. Rather, IID suggests that this complex and effective arrangement for the management of salinity both at the river and in the AAC should be given recognition, dignity, and deference in the face of redundant and potentially confusing regulation as has been proposed in the listing at hand. It is also important to note that salinity in the lower reaches of the Colorado River generally originates from uses and reuses in the upper basin states of Utah, Colorado, Wyoming and New, Mexico. In other words, it is not very effective to suggest that users in the lower reaches of the river may very easily influence the level of salinity in the

river, other than as is accomplished via the Salinity Control Act program and the operations of the Forum.

Given the fact that the current system of setting standards for salinity, grounded to a great extent in federal law (the Salinity Control Act) and in a federal treaty (as manifested in Minute 242), operates well and provides the kind of security needed for water users in the Imperial and Coachella valleys, this proposed listing as a water quality limited water body is not in the best interest of the state or in the best interest of the water users. We note that all Imperial Valley municipalities, for example, are in compliance with their California Department of Health Services permits for drinking water for the constituents in question. Thus, listing the AAC as an impaired source of drinking water will serve to create confusion for the regulated community, water users on the AAC and Coachella canals, and the general public. We also suggest that similar confusion and insecurity could also be created for users of water in Mexico if this listing were maintained.

B. The Colorado River below Imperial Dam

IID also objects to the listing of the Colorado River from Imperial Dam to the border with Mexico as water quality limited for selenium. Again, IID adopts herein the points set forth in the latter dated October 17th from the Colorado River Board (CRB) of California. It is clear from the information contained in the CRB letter that the samples used to support this listing are inadequate and insufficient and must therefore be supplemented and re-analyzed. IID also suggests that maintaining this listing for the river below Imperial Dam is likely to have a ripple effect on users along the AAC because of the close linkage between the river below Imperial Dam and the river above Imperial Dam. In other words, as noted above, IID suggests that the SWRCB should be exceedingly careful to avoid confusing both with the general public and the regulated community. Safe drinking water is a very sensitive matter for the public and therefore listings that suggest impairment should only be based on very sound scientific sampling and analysis.

If you have any questions regarding these comments, or if you require more information from IID, please contact Michael L. King on my staff at 760.339.9288.

Sincerely,

Charles J. Hosken

Charles J. Hosken
General Manager