QUANTIFICATION SETTLEMENT AGREEMENT
JOINT POWERS AUTHORITY
CREATION AND FUNDING AGREEMENT

This Quantification Settlement Agreement Joint Powers Authority Creation and Funding Agreement ("Agreement") is dated for reference this 10th day of October, 2003 and made by and among the STATE OF CALIFORNIA acting by and through the DEPARTMENT OF FISH AND GAME ("State"), the COACHELLA VALLEY WATER DISTRICT, ("CVWD"), the IMPERIAL IRRIGATION DISTRICT, ("IID") and the SAN DIEGO COUNTY WATER AUTHORITY, ("SDCWA"). The State, CVWD, IID and SDCWA are sometimes referred to herein, individually and collectively as the "Party" or "Parties". This Agreement is the QSA JPA as referenced in the QSA and the Environmental Cost Sharing Agreement.

RECITALS:

A. The Department of Fish and Game is a state agency formed pursuant to California Fish and Game Code section 700, *et seq.*, and is authorized by the Legislature to enter into this agreement on behalf of the State.

B. The CVWD is a county water district organized under the California County Water District Law.

C. The IID is an irrigation district organized under the California Irrigation District Law.

D. The SDCWA is a county water authority organized under the California County Water Authority Act.

E. Each of the Parties herein is a public agency. Each of the Parties herein is authorized and empowered to contract with the other Parties for the joint exercise of powers under California Joint Exercise of Powers Act and Section 3 of 2003 Stats., ch. 613 (SB 654, Machado) ("SB 654"). A copy of SB 654 is attached to this Agreement as Exhibit A.

F. SB 654 established a mechanism to implement and allocate environmental mitigation cost responsibility among IID, CVWD, SDCWA, and the State for the implementation of the 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement. Costs for environmental mitigation requirements up to and not to exceed a present value of $133,000,000 shall be borne by IID, CVWD, and SDCWA, with the balance to be borne by the State. Similarly, SB 654 limits the responsibility for payments by IID, CVWD and SDCWA for Salton Sea restoration to a present value of $30,000,000, in addition to any payments under the provisions of subdivision (c) of Section 2081.7 of the Fish and Game Code, subdivision (f) of Section 1013 of the Water Code, and subdivision (b) of Section 3 of SB 654.

G. IID, CVWD and SDCWA are entering this Agreement in reliance upon, and this Agreement is intended to implement, the provisions of SB 654 which allocates the costs and authorizes the State to accept responsibility for certain environmental mitigation costs. This

Agreement creates the Quantification Settlement Agreement Joint Powers Authority and establishes the respective obligations and limitations of each of the Parties for funding of the joint powers authority and the costs of environmental mitigation. In addition, this agreement establishes certain obligations and limitations related to the costs of Salton Sea Restoration.

H. On or about October 10, 2003, CVWD, IID, and The Metropolitan Water District of Southern California executed that certain Quantification Settlement Agreement ("QSA") which settles a variety of long-standing Colorado River disputes regarding the priority, use and transfer of Colorado River water, establishes the terms for the further distribution of Colorado River water among those entities for a period of time based upon the water budgets set forth therein and includes as a necessary component thereof the implementation of the 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement. These conserved water transfers and the QSA are critical components of the State's efforts to comply with the California Limitation Act of 1929, Section 4 of the Boulder Canyon Project Act of 1928 and to implement the California Constitutional mandate of Article X, Section 2. Neither the QSA or these conserved water transfers could be implemented without compliance with extensive state and federal environmental laws, and this Agreement including the State Obligation is the principal mechanism for ensuring that required mitigation under those laws for these transfers will be fully paid for.

I. The terms of the 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement are subject to the implementation of a mechanism to resolve and allocate environmental mitigation responsibility between those Parties on the terms and conditions set forth in that certain Environmental Cost Sharing, Funding and Habitat Conservation Plan Development Agreement among CVWD, IID, and SDCWA ("ECSA"). A copy of the ECSA is attached to this Agreement as Exhibit B.

J. This Agreement is necessary to (1) allocate among the State, the CVWD, the IID and the SDCWA Environmental Mitigation Costs; (2) make certain and limit the financial liability of the CVWD, the IID and the SDCWA for Environmental Mitigation Costs; (3) make certain and limit the financial liability of the CVWD, the IID and the SDCWA for Salton Sea restoration costs; and (4) allocate the remaining financial and other risks associated with the Environmental Mitigation Requirements and Salton Sea restoration costs to the State.

K. CVWD, IID and SDCWA have agreed to substantial commitments of water, money, and other valuable resources to implement the 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement, among which are commitments of funds to mitigate environmental impacts of those agreements and to promote restoration of the Salton Sea. These commitments would not have been made without the promises of the State as documented in this Agreement. In addition, IID, CVWD and SDCWA are relying upon this Agreement in entering into other agreements with third parties, including without limitation, contracts with landowners and farmers in the Imperial Valley who are to produce conserved water.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, PROMISES AND THE PROVISIONS, CONDITIONS AND TERMS PROVIDED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

ARTICLE I

DEFINITIONS AND PRELIMINARY PROVISIONS

1.1 Definitions.

As used in this Agreement, capitalized terms not defined below shall have the meaning set forth in the ECSA and, if not defined therein, in the QSA.

a. "Canal Lining Project" shall mean the design and construction of lining in portions of the All-American Canal and the Coachella Canal, as authorized by Public Law 100-675, which qualifies for funding pursuant to the California Water Code sections 12560, *et seq.* as amended by Section 1 of 2003 Stats., ch. 613 (SB 654, Machado).

b. "Environmental Mitigation Cost Limitation" shall mean (i) a present value equal to $133,000,000 of the payments by the CVWD, the IID and the SDCWA pursuant to this Agreement. Environmental Mitigation Cost Limitation with respect to the CVWD, the IID or the SDCWA, separately, shall mean the individual obligation for a portion of the amount of $133,000,000 allocated to each agency respectively by Article IX of this Agreement. When used in the context of the Environmental Mitigation Cost Limitation, the words "liable" or "liability" mean any responsibility or obligation arising out of or related to any claim, demand, cause of action, cost, expense, condition or restriction, and shall include, without limitation, damages, fees, fines, penalties, assessments, permit conditions, litigation cost, attorneys' fees, administrative requirements, in-kind contributions, adaptive management requirements, and cost-sharing requirements.

c. "Restore" and "Restoration" shall have the same meaning as such terms are used in the QSA Legislation.

d. "Salton Sea Restoration Limit" shall mean a present value equal to $30,000,000 of the payments made by the CVWD, the IID or the SDCWA to the Salton Sea Restoration Fund. Salton Sea Restoration Limit with respect to the CVWD, the IID or the SDCWA, separately, shall mean the individual obligation for a portion $30,000,000 limit for each agency respectively by Article XIV of this Agreement. When used in the context of the Salton Sea Restoration Limit, the words "liable" or "liability" mean any responsibility or obligation arising out of or related to any claim, demand, cause of action, cost, expense, condition or restriction, and shall include, without limitation, damages, fees, fines, penalties, assessments, permit conditions, litigation cost, attorneys' fees, administrative requirements, in-kind contributions, adaptive management requirements, and cost-sharing requirements. The Salton Sea Restoration Limit is exclusive of Salton Sea restoration funding provided pursuant to the provisions of subdivision (c) of Section 2081.7 and subdivision (f) of Section 1013 of the Water Code.

e. "State" shall mean the State of California.

1.2 Present Value of Amounts.

The amounts stated in subdivisions b and c of Section 1.2 and in Articles IX and XIV are in 2003 dollars and are expressed as present-value totals. The present value of these amounts shall be calculated using a six percent discount factor.

ARTICLE II

CREATION OF THE QUANTIFICATION SETTLEMENT AGREEMENT JOINT POWERS AUTHORITY

2.1. Creation of Agency.

There is hereby created a public agency known as the "Quantification Settlement Agreement Joint Powers Authority" (the "Authority"). The Authority is formed by this Agreement pursuant to the provisions of the Joint Exercise of Powers Act, being Article I, Chapter 5, Division 7, Title 1 of the Government Code of the State of California commencing at Section 6500, as supplemented by 2003 Stats., ch. 613 (SB 654 Machado). The Authority is a public agency separate from the Parties.

2.2. Purpose of Authority.

The purpose of this Authority is to pay for Environmental Mitigation Requirements and Environmental Mitigation Costs by and through the collection, holding, investing and disbursing of funds.

ARTICLE III

POWERS OF THE AUTHORITY

3.1 General Powers.

The governing body of the Authority shall have the power, in the Authority's own name, and as necessary or convenient to implementation of the Authority's purpose, to do any and all of the following:

(a) To make and enter into contracts, including, without limitation contracts with one or more of the Parties.

(b) To employ agents, employees, attorneys, consultants, advisors, and independent contractors.

(c) To incur debt, liabilities or obligations provided, however, that no debt, liability or obligation shall directly or indirectly result in a liability of the CVWD, the IID or the SDCWA in excess of the Environmental Mitigation Requirement Cost Limitation or the Salton Sea Restoration Limit. The Authority may issue revenue bonds, contracts of indebtedness,

certificates of participation and other finance instruments pursuant to any State statute applicable to any of the Parties. Action under this subdivision requires the affirmative vote of three Commissioners, including the Commissioner representing the State.

(d) To disburse funds to one or more of the Parties to pay for the implementation of the Environmental Mitigation Requirements, in accordance with a budget adopted by the governing body.

(e) To sue and be sued in its own name.

(f) To accumulate reserve funds for the purposes herein.

(g) To apply for, receive and utilize gifts, grants, and loans from any source available.

(h) To acquire, by grant, lease, purchase, bequest, devise, and hold, enjoy, lease or sell, or otherwise dispose of real and personal property.

(i) To invest surplus funds pursuant to Government Code § 6509.2, subject to Government Code §§ 53600 *et seq.* Interest or other earnings on funds contributed for Environmental Mitigation Costs shall be used exclusively for the payment of such costs.

(j) To adopt rules, policies, by-laws, regulations and procedures governing the operation of the Authority consistent with this Agreement.

(k) To take other actions necessary or convenient for the full exercise of the powers granted by this Agreement.

3.2 Limitation on Powers.

The Environmental Mitigation Cost Limitation and the 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.

3.3 Limitation of Liability of Parties.

The debts, liabilities and obligations of the Authority shall be the debts, liabilities and obligations of the Authority alone and not of the Parties or any Party.

3.4 Contracts.

The procedures and requirements applicable to contracts of the SDCWA shall apply to contracts of the Authority, provided, however, that all contracts shall be approved by the Commission.

3.5 Exercise of Powers.

The Authority shall be subject to the same restrictions upon the manner of exercising its powers as the restrictions upon the manner of exercising the powers of the SDCWA, unless otherwise provided herein.

ARTICLE IV

TERM

4.1 Effective Date.

This Agreement shall become effective and the Authority shall be created at the latter of the following events: (a) when the governing bodies of all of the Parties to this Agreement have authorized execution of this Agreement; or (b) January 1, 2004.

4.2 Termination Date.

This Agreement shall terminate on the later of (1) the mutual Termination Date of the 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement, or (2) when all Environmental Mitigation Requirements have been satisfied and the costs thereof fully paid, unless terminated sooner by written consent of each of the Parties evidenced by a certified copy of a resolution of its respective governing bodies.

4.3 Limitation on Withdrawal.

No Party to this Agreement may withdraw from the Authority without the express written consent or approval of all of the remaining Parties. Any attempted withdrawal by a Party not made in accordance with this Agreement shall be deemed a breach of this Agreement and the breaching Party shall be liable to the non-breaching Parties for the remainder of any sums owed by the Party under the ESCA and this Agreement, the Party's allocation of administrative expenses for the fiscal year in which the breach occurred and for the following fiscal years and for any damages for such breach.

ARTICLE V

GOVERNING BOARD

5.1 The Commission.

The governing body of the Authority shall be known as the "Commission" for the Authority. The Commission shall be composed of four (4) members ("Commissioners"), one from each Party to this Agreement. All of the power and authority of the Authority shall be exercised by the Commission.

5.2 Appointments to the Commission.

The CVWD, the IID and the SDCWA shall each designate and appoint one (1) member of its governing board to act as its Commissioner and one (1) member of its governing body to act as its alternate Commissioner. In lieu of appointing a member of its governing body, the CVWD, the IID or the SDCWA may appoint its general manager or a member of its staff as a Commissioner or alternate Commissioner. The manner of appointment of the Commissioner and alternate Commissioner shall be determined by the appointing agency, subject to the consent of the agency's governing body. The Director of the Department of Fish and Game or his or her designee shall be the Commissioner representing the State. The Director of the Department shall also designate an alternate. During any absence of the Commissioner, the alternative Commissioner shall act in his place. Each Commissioner (and alternate), other than the Commissioner representing the Department shall serve at the pleasure of the governing body of the appointing Party and may be removed at any time, with or without cause, in the sole discretion of the Party's governing body.

5.3 Commissioners to Serve Without Compensation from Authority.

The Commissioners and alternate Commissioners shall serve without compensation from the Authority. Each Party shall be responsible for paying the expenses of the Commissioner and alternate Commissioner of the Party incurred in connection with Authority business according to the law and policies applicable to the Party.

5.4 Resignation of Commissioners.

Any Commissioner or alternate Commissioner may resign at any time by giving notice to the Chairperson of the Authority and the presiding officer of the Party. Any such resignation shall be effective upon receipt of such notice or at any later time specified in the notice.

5.5 Vote by Commissioners.

Unless otherwise disqualified pursuant to California law because of a personal financial or other conflict of interest, a Commissioner, or an alternate Commissioner when acting in the absence of the Commissioner, may vote on all matters of Authority business, including, without limitation, contracts between the Authority and the appointing Party.

5.6 Local Conflict of Interest Code.

The Commission shall adopt a local conflict of interest code pursuant to the provisions of the Political Reform Act.

ARTICLE VI

CONDUCT OF MEETINGS

6.1 Meetings.

The Commission of the Authority shall establish a regular meeting schedule. At its first meeting, the Commission shall provide for the time and place of holding its regular meetings. Special meetings may be called at the request of the Chairperson or of a majority of the Commissioners. Notice of and the agenda for all meetings shall be furnished in writing to each Commissioner (and alternate) and to each Party to this Agreement. The meetings of the Commission shall be noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act as set forth in the California Government Code. The Commission may adopt supplemental rules of procedure for the conduct of meetings.

6.2 Minutes.

The Secretary of the Authority shall cause to be kept the minutes of all Commission meetings, and shall cause a copy of these minutes, along with copies of all ordinances and resolutions enacted, to be forwarded to each of the Parties hereto.

6.3 Quorum.

Three members of the Commission shall constitute a quorum for the transaction of business. In the absence of a Commissioner, the alternate Commissioner, if present, shall be counted for purposes of determining a quorum.

6.4 Actions.

Unless otherwise provided herein, all actions of the Commission shall be passed upon the affirmative vote of three Commissioners. Actions may be taken by resolution or motion recorded in the minutes.

ARTICLE VII

OFFICERS

7.1 Chairperson.

The Commissioner representing the State shall act as Chairperson of the Commission. The Chairperson is the presiding officer of the Commission. The Chairperson and shall be recognized as the head of the Authority for all ceremonial and public purposes, and for the signing of legal instruments and documents of the Authority. At meetings of the Commission, the Chairperson shall not be deprived of any of the rights and privileges of a Commissioner by reason of being presiding officer. The alternate Commissioner representing the State shall serve as Chairperson in the absence of the State's Commissioner.

7.2 Vice-chairperson.

The Commission may select one of its members to serve as Vice-chairperson. The Vice-chairperson is the presiding officer of the Commission in the absence of the Chairperson. The Vice-chairperson shall perform the duties of the Chairperson whenever the Chairperson is absent, temporarily incapacitated from performing the duties of the Chairperson, or as may be delegated by the Chairperson. The Vice-chairperson shall serve at the pleasure of the Commission.

7.3 Additional Officers.

The Commission may appoint such additional officers to perform such duties and shall have such powers as the Commission may, from time to time, determine.

7.4 Service of Vice-chairperson or Additional Officers.

Subject to the provisions set forth herein, the officers shall be appointed annually in January. Officers shall assume the duties of their offices immediately after their appointment and shall hold office until their successors are appointed, except in the case of their earlier removal or resignation. Vacancies shall be filled by appointment of the Commissioners and such appointee shall hold office until the appointment of his or her successor.

ARTICLE VIII

MANAGEMENT

8.1 Chief Administrative Officer.

The General Manager of the SDCWA or an employee of the SDCWA designated by the General Manager of the SDCWA shall serve as the Chief Administrative Officer of the Authority. Such service shall be without compensation by the Authority. The Chief Administrative Officer is responsible for the efficient administration of the affairs of the Authority. The Chief Administrative Officer shall serve as secretary to the Commission and

shall keep the minutes and records of the Authority. The records of the Authority are subject to the California Public Records Act. The SDCWA shall not receive economic remuneration from the Authority or the other Parties for provision of administrative management services under this paragraph.

8.2 Treasurer.

The Treasurer of the SDCWA shall serve as the treasurer of the Authority. The treasurer shall be the depository and have custody of all of the money of the Authority from whatever source. The duties of the treasurer shall be performed in accordance with Government Code § 6505.5 without compensation or charge to the Authority, provided, however, that the treasurer may contract with a certified public accountant, public accountant or other qualified independent auditor to make an annual audit of the accounts and records of the Authority as provided in Government Code § 6505 and may charge the costs thereof to the Authority as a reimbursable expense. The treasurer may contract with qualified investment, financial and other advisors and may charge the costs thereof to the Authority as a reimbursable expense. Except as otherwise provided herein, the SDCWA shall not receive economic remuneration from the Authority or the other Parties for provision of treasurer services under this paragraph. The Treasurer may invest funds of the Authority according to an investment policy of the Commission adopted pursuant to Government Code §§ 53600 *et seq*. Until such an investment policy is adopted, the investment policy of the SDCWA shall apply to investment of Authority funds.

8.3 Legal Counsel.

The chief legal counsel of CVWD shall serve as legal counsel to the Authority. In the event of an ethical conflict of interest arising from a direct dispute between the Authority and any of the Parties, the Authority shall retain independent legal counsel the cost of which shall be borne by the Parties. The CVWD shall not receive economic remuneration from the Authority or the other Parties for provision of legal services under this paragraph. Litigation services, if needed, are to be provided subject to a contract with qualified counsel after approval by the Commission, and shall be paid pursuant to Section 10.4.

8.4 Agent for Service of Process.

The Chief Administrative Officer of the Authority is the Authority's agent for service of process.

8.5 Authority's Business Offices.

Authority's business office shall be located at the principal place of business of the SDCWA, which on the date of this agreement is 4677 Overland Ave., San Diego, CA 92123. SDCWA shall make its personnel available, during the term of this Agreement as necessary to perform the secretarial, clerical, accounting and administrative duties of the Authority without remuneration, cost or expense of any kind to the Authority or the other Parties, except as otherwise provided in Article X.

8.6 Roster of Public Agencies.

The Chief Administrative Officer shall register the Authority in the roster of public agencies pursuant to Government Code § 53051.

ARTICLE IX

CONTRIBUTIONS FOR ENVIRONMENTAL MITIGATION REQUIREMENTS

9.1 Environmental Mitigation Contributions.

The CVWD, the IID and the SDCWA shall make contributions to the Authority having a present value of the following amounts:

CVWD	$36,717,791
IID	$30,000,000
SDCWA	$52,220,859

The IID shall also make an additional contribution pursuant its obligation under Section 4.1(2) of the ECSA having a present value of $14,061,350. Payments shall be made according to the schedules attached as Exhibits C-1, C-2 and C-3, unless paid in advance.

9.2 State Obligation.

The State is solely responsible for the payment of the costs of and liability for Environmental Mitigation Requirements in excess of the Environmental Mitigation Cost Limitation. The amount of such costs and liabilities shall be determined by the affirmative vote of three Commissioners, including the Commissioner representing the State, which determination shall be reasonably made. The State obligation is an unconditional contractual obligation of the State of California, and such obligation is not conditioned upon an appropriation by the Legislature, nor shall the event of non-appropriation be a defense.

9.3 Remaining Environmental Mitigation Costs.

The State shall have the rights under Section 4.2(2) of the ECSA to reduce its possible obligation to pay Remaining Environmental Mitigation Costs.

9.4 Environmental Mitigation Costs Following Termination of 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement.

The Authority shall have the rights and obligation under Section 4.3(3) and (4) of the ECSA.

9.5 Adjustment of Payment Schedules.

The CVWD, the IID or the SDCWA may adjust its respective payment schedule identified in Exhibit C-1, C-2 or C-3 so long as the adjustment does not affect the Authority's ability to pay Environmental Mitigation Costs subject to Environmental Mitigation Cost Limitation. If the Authority issues debt, the Party or Parties whose schedule of payments provides the revenue to repay the debt shall (i) reimburse the Authority for the amount, if any, debt service payments exceed the amount required if the Authority borrowed money at an annual interest rate of 6% compounded annually, and (ii) shall receive a credit against its schedule of payments for the amount, if any, debt service payments are less than they would be if the Authority had borrowed money at an annual rate of 6% compounded annually. Payments actually made by a Party toward Environmental Mitigation Costs after October 10, 2003 and before the Effective Date of this Agreement shall be credited to that Party's payment obligation under this Agreement. Additionally, SDCWA shall receive a credit toward its payment obligations under this Agreement, not to exceed a present value of $3,118,000, for payments made to the Bureau of Reclamation for satisfaction of Environmental Mitigation Requirements pursuant to that agreement among the Bureau of Reclamation, MWD, and SDCWA, dated October 10, 2003, regarding responsibility for implementation of Conservation and Mitigation Measures for the Colorado River described in a U.S. Fish and Wildlife Service Biological Opinion dated January 12, 2001.

ARTICLE X

BUDGET, CONTRIBUTION FOR THE COST AND EXPENSES OF THE AUTHORITY AND PAYMENTS BY THE AUTHORITY

10.1 Annual Budget.

As soon as possible after the formation of the Authority and annually thereafter, the Commission shall adopt a budget for the payment of Environmental Mitigation Costs. The budget shall be prepared in sufficient detail to constitute an operating outline for contributions to be made by the Parties and expenditures to be made during the ensuing year to pay for the Environmental Mitigation Costs. The budget shall include payments to IID for Salton Sea mitigation water consistent with Exhibit D. The affirmative vote of three Commissioners, including the Commissioner representing the State, is required for action under this section, and the approval of each shall not be unreasonably withheld after giving meaningful consideration to the need for timely implementation of any Environmental Mitigation Requirement and the appropriate procurement or maintenance of any permit, approval, authorization, or other requirement, of any Environmental Mitigation Requirement.

10.2 Financing Plan.

The Commission may adopt a long-term financing plan to assure that sufficient funds are available to meet the reasonably expected annual costs of paying for the Environmental Mitigation Requirements. In the event that the Authority is required to issue debt, in any form, the Party or Parties whose schedule of payments provides the revenue to repay the debt shall incur the costs of issuance and the adjustments as provided for in Section 9.3. The affirmative

vote of three Commissioners, including the Commissioner representing the State, is required for action under this section.

10.3 Reimbursement to Parties of Direct Costs Incurred for Environmental Mitigation.

A Party that incurs Direct costs for Environmental Mitigation Costs under the approved budget will be reimbursed by the Authority. Reimbursement shall be made only upon submission of a cost report signed by the treasurer or controller of the Party and determination of the Authority that the report substantially conforms to the requirements of this Section. The cost report shall be in a form and contain the information specified by the Commission. The cost report shall be based upon proper accounting records maintained by the Party. The accounting records shall be open to inspection by the Authority or any other Party. The Authority's determination regarding a cost report shall be made within thirty days of submission. Reimbursement shall be made by the Authority within thirty days following determination of the Authority that the report conforms with the requirements of this section. If the Authority determines that a report does not comply with the requirements of this section, the Party submitting the report may submit a revised report, which shall then be considered in the same manner as an initial report. If any portion of an approved reimbursement is not timely paid, the delinquent amount will bear interest at the rate earned by the Authority on its investments, but not to exceed twelve percent interest per annum compounded monthly. Direct costs shall mean Costs, other than out-of-pocket costs, as defined in the ESCA, but shall not include a Party's administrative costs, overhead costs, staff costs, losses of revenue from any source, other opportunity costs of any kind and other similar indirect costs as determined by the Commission not inconsistent with the ESCA.

10.4 Environmental Litigation Costs.

Environmental Litigation Costs shall be paid as set forth in Section 3.2 of the ECSA.

ARTICLE XI

CONTRIBUTION PROCEDURE FOR AMOUNTS EXTRAORDINARY ADMINISTRATIVE AND OTHER REIMBURSABLE EXPENSES

11.1 Extraordinary Administrative and Other Reimbursable Expenses.

The Commission may, upon request by the SDCWA reimburse the SDCWA for extraordinary administrative costs and other reimbursable expenses incurred on behalf of and at the specific request of the Authority. The Commission shall pay for legal, accounting, and other special professional services employed by the Authority and not otherwise provided by a Party. Upon authorization of such expenses by the Commission, each Party shall provide for equal contributions toward the total amount of the approved expenditure. Contributions for extraordinary administrative costs shall be in addition to the contributions for the payment of Environmental Mitigation Requirements and shall not count towards the Environmental Mitigation Cost Limitation.

11.2 Time of Payment.

The contribution of each Party for allowed costs under Section 11.1 shall be billed quarterly and due and payable thirty (30) days after receipt of a billing therefor from the Authority. Unpaid contributions shall bear interest at the legal rate of interest from the date due to the date paid.

ARTICLE X11

ACCOUNTING

12.1 Fiscal Year.

The fiscal year of the Authority shall be from July 1 of a year to June 30 of the following year.

12.2 Books and Accounts.

Full books and accounts shall be maintained by the treasurer in accordance with practices established by or consistent with those utilized by the Controller of the State of California for like public agencies. Subject to the provisions of paragraph 8.2, the treasurer of the Authority shall comply strictly with the requirements of the statutes governing joint power agencies, Chapter 5, Division 7, Title 1 of the Government Code, commencing with Section 6500.

12.3 Filing Annual Audit.

The annual audit of the accounts of the Authority shall be filed with each Party no later than fifteen (15) days after receipt of the audit by the Commission.

ARTICLE XIII

DISSOLUTION OR TERMINATION

13.1 Distribution of Residual.

Dissolution or termination shall not relieve any Party of its obligation to pay for Environmental Mitigation Requirements under this Agreement. Upon dissolution or termination of the Authority any residual funds remaining after payment in full of all Environmental Mitigation Requirements shall be distributed to the Salton Sea Restoration Fund, and any remaining funds due from a Party shall be paid by that party directly to the Salton Sea Restoration Fund.

13.2 Manner of Distribution.

The distribution of assets may be made in kind or assets may be sold and the proceeds thereof distributed to a Party at the time of withdrawal or to the Parties at the time of dissolution.

ARTICLE XIV

FUNDING LIMITATION

14.1 Funding Limitation for Environmental Mitigation Requirements.

The liability of the CVWD, the IID and the SDCWA for Environmental Mitigation Requirements or Environmental Mitigation Costs shall not exceed the Environmental Mitigation Cost Limitation. The State shall defend, indemnify and hold harmless the CVWD, the IID and the SDCWA, individually or collectively as the case may be, with respect to any Environmental Mitigation Requirement or Environmental Mitigation Cost which exceeds the Environmental Mitigation Cost Limitation.

14.2 Cooperation Regarding State Obligation.

If the Authority anticipates that the Environmental Mitigation Cost Limitation will be exceeded within two years, then the Authority shall submit a written notice to the State stating the reasons for that anticipation, as well as estimates of the projected cost of remaining Environmental Mitigation Requirements. The State will seek, with the support of the other Parties, to obtain Legislative appropriation of funds sufficient to satisfy the State obligation, if any, for costs of the Environmental Mitigation Requirements as soon as it appears that the expenditures of the Authority are within $5,000,000 of the Environmental Mitigation Requirement Cost Limitation, so long as the Authority has encumbered the total amount owed pursuant to Article IX by the CVWD, the IID and the SDCWA.

14.3 Funding Limitation for Salton Sea Restoration Costs.

In accordance with this Agreement and as required by the State agency responsible for administration of the Salton Sea Restoration Fund, the CVWD, the IID and the SDCWA shall make contributions to the Salton Sea Restoration Fund having a present value of the following amounts:

CVWD	$ 8,282,209
IID	$ 9,938,650
SDCWA	$11,779,141

IID's payments to the Salton Sea Restoration Fund shall not exceed in any year the amounts set forth on Exhibit E., unless IID consents.

The liability of the CVWD, the IID and the SDCWA for Salton Sea restoration costs shall not exceed the Salton Sea Restoration Limit. The State shall defend, indemnify and hold harmless the CVWD, the IID and the SDCWA, individually or collectively as the case may be,

with respect to any liability, requirement, expense, cost or obligation for restoration of the Salton Sea the cost of which exceeds the Salton Sea Restoration Limit.

ARTICLE XV

GENERAL PROVISIONS

15.1 Governing Law.

This Agreement is entered into in the Counties of Riverside, Imperial and San Diego, California and shall be governed by and construed in accordance with the laws of the State of California.

15.2 Severability and Waiver.

In the event that any term or condition of this Agreement is determined to be invalid, illegal or otherwise unenforceable, this Agreement shall be terminated unless the Parties otherwise consent to continuation of the Agreement without the severed provision. If the CVWD, the IID, or the SDCWA have made payments or incurred unreimbursed Direct costs for the Environmental Mitigation Requirements or for the Salton Sea Restoration Fund as provided in this Agreement, then the obligations of the State under Sections 9.2, 14.1 or 14.3 shall remain in full force and effect as to the party making such contribution notwithstanding the severance of any provision, or termination of this Agreement pursuant to this Section. Lack of enforcement of any term or condition of this Agreement shall not be construed as a waiver of any rights conferred by such term or condition. Unless otherwise agreed to in writing, the failure of any Party to require the performance by the other Party of any provision hereof shall in no way affect the full right to require such performance at any time thereafter, nor shall the waiver of any provision hereof on one occasion be taken or held to be a waiver of the provision itself.

15.3 Binding Effect.

This Agreement shall be binding on the Parties and their respective successors and assigns, provided that assignment of this Agreement shall require consent of the other Parties.

15.4 Authority to Execute.

Any person signing this Agreement represents that he/she has full power and authority to do so, and, that his/her signature is legally sufficient to bind the Party on whose behalf he/she is signing.

15.5 Integrated Agreement.

This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof, and supersedes any prior understanding between the Parties, except as set forth herein, whether written or oral. This Agreement can be amended only in writing signed by the Parties.

15.6 Time of the Essence.

Time is of the essence of this Agreement.

15.7 Notices.

Any communication, notice or demand of any kind whatsoever which any Party may be required or may desire to give to or serve upon the other Party shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by telex, telegram or telecopying (if confirmed in writing sent by registered or certified mail, postage prepaid, return receipt requested), or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

State of California c/o Department of Fish and Game
1416 Ninth Street, 12th Floor
Sacramento, CA 95814

CVWD: Coachella Valley Water District
Attention: General Manager/Chief Engineer
P. O. Box 1058
Coachella, CA 92236

for personal or overnight delivery:

Coachella Valley Water District
Attention: General Manager/Chief Engineer
Avenue 52 and Highway 111
Coachella, CA 92236

Telephone: 760-398-2651
Facsimile: 760-398-3711

Copy to: Gerald D. Shoaf, Esq.
Steven B. Abbott, Esq.
Redwine and Sherrill
1950 Market Street
Riverside, CA 92501-1720
Telephone: 909-684-2520
Facsimile: 909-684-9583

IID: Imperial Irrigation District
Attn: General Manager
P.O. Box 937
Imperial, CA 92251
Telephone: 760-339-9477
Facsimile: 760-3339-9392

for personal or overnight delivery:

Imperial Irrigation District
Attn: General Manager
333 E. Barioni Boulevard
Imperial, CA 92251

Copy to: John P. Carter
Horton, Knox, Carter & Foote
895 Broadway
El Centro, CA 92243
Telephone: 760-482-9651
Facsimile: 760-370-0900

SDCWA: San Diego County Water Authority
Attn: General Manager
4677 Overland Ave.
San Diego, CA 92123
Telephone: 858-522-6780
Facsimile: 858-522-6562

Copy to: San Diego County Water Authority
Attn: General Counsel
4677 Overland Ave.
San Diego, CA 92123
Telephone: 858-522-6790
Facsimile: 858-522-6562

Any Party may change its address for notice by written notice given to the other Parties in the manner provided in this subsection 15.7. Any such communication, notice or demand shall be deemed to have been duly given or served on the date personally served, if by personal service; one (1) day after the date of confirmed dispatch, if by electronic communication, or three (3) days after being placed in the U.S. mail, if mailed.

15.8 Further Acts.

Each Party agrees to perform any further acts and to execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

15.9 Interpretation.

The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any Party based upon any attribution to such Party as the source of the language in question.

15.10 Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon, provided such signature page is attached to another counterpart identical thereto, except for having additional signature pages executed by another Party to this Agreement attached thereto.

15.11 Third Party Beneficiaries

This Agreement, other than with respect to Section 9.2, is made solely for the benefit of the Parties hereto and their respective successors and assigns. No other person or entity may have or acquire any right by virtue of this Agreement.

15.12 Additional Parties.

Additional parties may join this agreement only upon the amendment of this agreement consented to by all the existing Parties.

15.13 Remedies.

Each Party shall have all remedies available at law or in equity to enforce the terms of this Agreement. The State shall have the power to sue and be sued in any court of competent jurisdiction.

15.14 Joint Defense.

The Parties and the Authority will cooperate, proceed with reasonable diligence, and use reasonable best efforts to defend any lawsuit or administrative proceeding challenging the validity or enforceability of any terms of this Agreement, or any Party's right to act in accordance with any of the terms of this Agreement. Each Party will bear its own costs of participating and representation in any such defense.

15.15 No Waiver of Sovereign Immunity.

Notwithstanding any other provision of this Agreement, nothing herein is intended to constitute consent by the State of California or any of its departments, agencies, commissions, or boards to suit in any court described in Article III of the U.S. Constitution. This Agreement shall not waive, or be interpreted as waiving, the State of California's sovereign immunity under the

Eleventh Amendment or any other provision of the U.S. Constitution in any present or future judicial or administrative proceeding.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement on the day and year hereinafter indicated.

STATE OF CALIFORNIA, acting by and through the Department of Fish and Game

By Robert C. Wright

Title

Attest:

By

Approved as to Form and Content:

By

COACHELLA VALLEY WATER DISTRICT, a California county water district

By

Steven Robbins

Its General Manager/Chief Engineer

Approved as to Form and Content:

REDWINE AND SHERRILL

By

IMPERIAL IRRIGATION DISTRICT, a California irrigation district

By

Its PRESIDENT

By Gloria A Rivera

Its Secretary

Approved as to Form and Content:

By

SAN DIEGO COUNTY WATER AUTHORITY

By _____

Its General Manager

By _____

Its _____

Approved as to ~~Form and Content~~

By _____

EXHIBIT A

EXHIBIT A

SB 654 (MACHADO)

Senate Bill No. 654

CHAPTER 613

An act to amend Section 12562 of the Water Code, and to amend Section 1 of Chapter 617 of the Statutes of 2002, relating to water, and making an appropriation therefor.

[Approved by Governor September 29, 2003. Filed with Secretary of State September 29, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 654, Machado. Water: Salton Sea: Colorado River.

(1) Existing law appropriates General Fund moneys to, among other things, line portions of the All American Canal and the Coachella Branch of the All American Canal. Existing law requires the lining projects to be completed not later than December 31, 2006, or such later date as may be required by extraordinary circumstances.

This bill would make legislative findings as to the extraordinary circumstances that prevent the lining projects from being completed by December 31, 2006, and would extend the date to December 31, 2008.

(2) Existing law makes legislative findings concerning the Salton Sea and a Quantification Settlement Agreement, including a finding that species previously designated as fully protected may be taken during activities intended to meet the state's commitment to reduce its use of Colorado River water, as long as those activities are found to comply with existing law.

This bill would, instead, make findings permitting the taking incidental to those activities.

(3) Existing law provides for a California's Colorado River Water Use Plan, and for a Quantification Settlement Agreement.

This bill would make a legislative finding and declaration that in order to resolve conflicts that have prevented the implementation of California's Colorado River Water Use Plan it is necessary to provide a mechanism to implement and allocate environmental mitigation responsibility between water agencies and the state for the implementation of the Quantification Settlement Agreement. The bill would permit the Department of Fish and Game to enter into a joint powers agreement for the purpose of providing for the payment of costs for environmental mitigation requirements, and would specify the costs to be paid by the agencies that are parties to the agreement. By authorizing the department to enter into the agreement, this bill would

make an appropriation by authorizing expenditures from the continuously appropriated Fish and Game Preservation Fund.

(4) This bill would become operative only if SB 277 and SB 317 are both chaptered and become effective on or before January 1, 2004.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 12562 of the Water Code is amended to read:

12562. (a) (1) In furtherance of implementing and achieving the goals of the "California Plan," the sum of two hundred million dollars ($200,000,000) in the account shall be used by the director to finance and arrange for lining portions of the All American Canal and the Coachella Branch of the All American Canal.

(2) The canal lining projects shall be completed not later than December 31, 2008, or such later date as may be required by extraordinary circumstances.

(3) The allocation of the water conserved from the canal lining projects and to be made available to the Metropolitan Water District of Southern California shall be consistent with federal law and shall be determined by an agreement among the Metropolitan Water District of Southern California, the Imperial Irrigation District, the Palo Verde Irrigation District, the Coachella Valley Water District, and the San Luis Rey settlement parties, reached after consultation with the director and the United States Secretary of the Interior.

(b) (1) The sum of thirty-five million dollars ($35,000,000) from the account shall be used by the director to finance the installation of recharge, extraction, and distribution facilities for groundwater conjunctive use programs necessary to implement the "California Plan."

(2) Water stored in connection with the groundwater conjunctive use programs described in paragraph (1) shall be for the benefit of the member public agencies of the Metropolitan Water District of Southern California.

(3) Nothing in this subdivision limits the ability of the Metropolitan Water District of Southern California to enter into agreements regarding the sharing of any water made available under this subdivision.

(c) The Legislature finds that the extension of the date from December 31, 2006, to December 31, 2008, for completing the canal project linings under paragraph (2) of subdivision (a) during the 2003 portion of the 2003–04 Regular Session is required due to extraordinary circumstances. The Legislature finds that there have been unforeseen construction delays, contract award delays, and changed conditions

requiring design modifications for lining the All American Canal and the Coachella Branch of the All American Canal, and that these circumstances are extraordinary.

SEC. 2. Section 1 of Chapter 617 of the Statutes of 2002 is amended to read:

Section 1. (a) "Quantification Settlement Agreement" means the agreement, the provisions of which are substantially described in the draft Quantification Settlement Agreement (QSA), dated December 12, 2000, and submitted for public review by the Quantification Settlement Agreement parties, and as it may be amended, and that shall include as a necessary component the implementation of the Agreement for Transfer of Conserved Water by and between the Imperial Irrigation District and the San Diego County Water Authority, dated April 29, 1998 (IID/SDCWA Transfer Agreement), and as it may be amended, and any QSA-related program that delivers water at the intake of the Metropolitan Water District of Southern California's Colorado River Aqueduct.

(b) It is the intent of the Legislature to allocate fifty million dollars ($50,000,000) from funds available pursuant to the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, if it is approved by the voters at the statewide general election to be held November 5, 2002 (Proposition 50), as a minimum state contribution or matching contribution for federal funds or funds obtained from other sources to prepare the restoration study, to assist in the implementation of the preferred alternative or other related restoration activities, including the program referred to in paragraph (3) of subdivision (d) of Section 2081.7 of the Fish and Game Code, at the Salton Sea or the lower Colorado River, or to assist in the development of a natural community conservation plan that is consistent with the initiative and that is implemented to effectuate the QSA.

(c) The Legislature finds that it is important to the state to meet its commitment to reduce its use of water from the Colorado River to 4.4 million acre-feet per year. The Legislature further finds that it is important that actions taken to reduce California's Colorado River water use are consistent with its commitment to restore the Salton Sea, which is an important resource for the state. The Legislature further finds that species previously designated as fully protected may be taken incidental to activities intended to meet the state's commitment to reduce its use of Colorado River water as long as those activities are found to comply with existing law, including Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(d) California's Colorado River Water Use Plan is a framework developed to allow California to meet its Colorado River needs from

within its basic annual apportionment. California will be required to reduce the amount of Colorado River water it uses by up to 800,000 acre-feet per year.

(e) California's basic apportionment of Colorado River water is 4.4 million acre-feet per year, but until recently, due to the availability of surplus river water and apportioned but unused water of Nevada and Arizona, California has used up to 5.2 million acre-feet per year over the past ten years. About 700,000 acre-feet of this additional water has been used to fill the Colorado River Aqueduct, which transports water to the southern California urban coast. Nevada and Arizona are now using, or are close to using, their full apportionments, and California can no longer rely on that surplus of water.

(f) The Salton Sea will eventually become too saline to support its fishery and fish-eating birds unless a restoration plan is adopted and implemented. The transfer of water from the Imperial Irrigation District to the San Diego County Water Authority and the other Quantification Settlement Agreement (QSA) parties pursuant to the QSA could result in an acceleration of the rate of salinization of the Salton Sea.

(g) Restoration of the Salton Sea is in the state and national interest. Congress recognized in the Salton Sea Reclamation Act of 1998, Public Law 105-372, that appropriate federal agencies should offer alternative restoration options to Congress and the public in order to avoid further deterioration of the internationally significant habitat and wildlife values of the Salton Sea and to protect the wide array of economic and social values that exist in the immediate vicinity of the Salton Sea. The failure to issue that report in a timely fashion has unnecessarily constrained the Legislature's ability to consider fully the costs and benefits of various options to restoration that should be undertaken at the Salton Sea.

SEC. 3. The Legislature hereby finds and declares that in order to resolve conflicts that have prevented the implementation of California's Colorado River Water Use Plan it is necessary to provide a mechanism to implement and allocate environmental mitigation responsibility between water agencies and the state for the implementation of the Quantification Settlement Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002, as follows:

(a) Notwithstanding any other provision of law, the Department of Fish and Game may enter into a joint powers agreement for the purpose of providing for the payment of costs for environmental mitigation requirements. The Director of the Department of Fish and Game or his or her designee shall chair the authority created by the joint powers agreement. The joint powers agreement shall include the following agencies:

(1) Coachella Valley Water District.

(2) Imperial Irrigation District.

(3) San Diego County Water Authority.

(b) Costs for environmental mitigation requirements shall be allocated based on an agreement among Imperial Irrigation District, the Coachella Valley Water District, the San Diego County Water Authority and the Department of Fish and Game and shall include the following:

(1) Costs up to, and not to exceed, one hundred thirty-three million dollars ($133,000,000) shall be paid by the Imperial Irrigation District, the Coachella Valley Water District, and the San Diego County Water Authority for environmental mitigation requirements. Those costs may be paid to a joint powers authority established pursuant to this section. The amount of the obligation established in this paragraph shall be adjusted for inflation.

(2) Thirty million dollars ($30,000,000) shall be paid by the Imperial Irrigation District, Coachella Valley Water District, and the San Diego County Water Authority to the Salton Sea Restoration Fund as provided in paragraph (6) of subdivision (c) of Section 2081.7 of the Fish and Game Code. This amount shall be adjusted for inflation.

(c) Except for the requirements of subdivision (c) of Section 2081.7 of the Fish and Game Code, subdivision (f) of Section 1013 of the Water Code, and the provisions of subdivision (b), 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, the Coachella Valley Water District, the Metropolitan Water District of Southern California, and the San Diego County Water Authority, including federal cost-sharing or other federal requirements. Any future state actions to restore the Salton Sea will be the sole responsibility of the State of California.

(d) As used in this section, "environmental mitigation requirements" means any measures required as a result of any environmental review process for activities which are part of the project described in the final Environmental Impact Report/Environmental Impact Statement for the Imperial Irrigation District Water Conservation and transfer project certified by the Imperial Irrigation District on June 28, 2002, as modified and supplemented by the addendum thereto prepared to assess subsequent revisions to the Quantification Settlement Agreement, but excluding measures required to address environmental impacts:

(1) Within the service areas of the Coachella Valley Water District, other than impacts related to the Salton Sea, the San Diego County Water Authority, and the Metropolitan Water District of Southern California.

(2) Associated with the All American Canal and the Coachella Canal Lining Projects, and measures to address socioeconomic impacts.

(e) As used in this section, "environmental review process" means any of the following:

(1) The conducting of any required environmental review or assessment, or both.

(2) The obtaining of any permit, authorization, opinion, assessment or agreement.

(3) The study or design of any required mitigation pursuant to the California Environmental Quality Act, the National Environmental Protection Act, the Endangered Species Act, the California Endangered Species Act, the California Water Code, the public trust doctrine, or any other federal or California environmental resource protection law, or applicable federal or California regulations regarding their implementation.

(f) As used in this section, "environmental review process" does not include the Lower Colorado River Multi-Species Conservation Program established by the States of California, Arizona, and Nevada, as it may address impacts to the Colorado River.

SEC. 4. This act shall become operative only if SB 277 and SB 317 of the 2003–04 Regular Session are both chaptered and become effective on or before January 1, 2004.

O

EXHIBIT B

EXHIBIT B

ENVIRONMENTAL COST SHARING AGREEMENT

ENVIRONMENTAL COST SHARING, FUNDING, AND HABITAT CONSERVATION PLAN DEVELOPMENT AGREEMENT

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ENVIRONMENTAL COST SHARING , FUNDING, AND HABITAT CONSERVATION PLAN DEVELOPMENT AGREEMENT

This Environmental Cost Sharing, Funding, and Habitat Conservation Plan Development Agreement ("Agreement") is entered into as of October 10, 2003 ("Agreement Date"), by and among the COACHELLA VALLEY WATER DISTRICT, a California county water district ("CVWD"); the IMPERIAL IRRIGATION DISTRICT, a California irrigation district ("IID"); and the SAN DIEGO COUNTY WATER AUTHORITY, a California county water authority ("SDCWA") (CVWD, IID, and SDCWA are sometimes referred to individually in this Agreement as "Party" and collectively as the "Parties").

RECITALS:

A. IID, MWD and CVWD have entered into the Quantification Settlement Agreement dated as of October 10, 2003 (the "QSA").

B. IID and SDCWA have executed an Agreement for Transfer of Conserved Water dated April 29, 1998, and various amendments thereto (collectively, the "1998 IID/SDCWA Transfer Agreement") subject to environmental review and other conditions, which describes certain proposed activities involving the conservation of water by IID and the transfer of the conserved water to SDCWA.

C. IID and SDCWA have entered into an agreement dated January 27, 2000 to share certain costs related to the environmental review and compliance process and other state and federal approvals required to satisfy conditions necessary to implement the transactions described in the 1998 IID/SDCWA Transfer Agreement on the terms set forth therein (as the same may be amended from time to time, the "IID/SDCWA Cost Sharing Protocol).

D. The State of California has enacted the QSA Legislation as defined in the QSA.

E. The Parties and the State of California have executed the QSA-JPA as defined in the QSA, which provides, among other things, that Environmental Mitigation Costs for the IID water budget and certain IID transfers pursuant to the QSA and Related Agreements in excess of one hundred thirty-three million dollars ($133,000,000) in Effective-Date Dollars shall be the exclusive responsibility of the State of California so as to ensure compliance with all federal and state environmental laws, including but not limited to the federal Endangered Species Act, federal Clean Air Act, and federal Clean Water Act.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises set forth herein, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1. Incorporated Definitions. The terms with initial capital letters that are used in this Agreement shall have the same meaning as set forth in Section 1.1 of the QSA, as of the Closing Date of the QSA, unless the context otherwise requires.

1.2. **Additional Definitions.** The following terms with initial capital letters shall have the meaning as set forth below.

(1) **Changed Circumstances**. Changes in circumstances affecting a species or the geographic area covered by the HCP that can reasonably be anticipated by the parties and that can reasonably be planned for in the HCP (e.g. a fire or other natural catastrophic event in areas prone to such event.) Changed Circumstances and the planned responses to those circumstances are described in the Draft HCP.

(2) **Class A Covered Species**. The species identified in Table 1.5-1 of the Draft HCP, but excluding the 25 species identified in Table 3.9-1 of the Draft HCP.

(3) **Class B Covered Species**. The species identified in Table 3.9-1 of the Draft HCP.

(4) **Costs**. All out of pocket costs reasonably incurred by a Party for a specified purpose pursuant to this Agreement, including, but not limited to, financing costs, costs of the Parties' staff, contractors, equipment, and real and personal property. The cost of real property shall be determined by its fair market value as defined in California Code of Civil Procedure §§ 1263.310 et seq.

(5) **Covered Activities**. Those activities described as Covered Activities in the Draft HCP.

(6) **Covered Species**. Class A Covered Species and Class B Covered Species.

(7) **Decision Date**. October 10, 2003.

(8) **Draft HCP**. The draft Habitat Conservation Plan dated June 2002 and included in the Final EIR/EIS for the IID Water Conservation and Transfer Project, as certified by the IID Board on June 28, 2002.

(9) **Environmental Litigation Costs**. All Costs reasonably incurred by any Party to defend any litigation involving transactions contemplated by the 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement that challenges in whole or in part compliance with applicable environmental laws and regulations or any permit, appraisal, authorization, opinion, assessment or agreement pursuant to any other federal or any state resource protection law or applicable federal or state regulation implementing same.

(10) **Environmental Mitigation Costs.** All Costs reasonably incurred by any Party to satisfy the Environmental Mitigation Requirements. Reasonable attorneys' fees incurred for legal services related to the financing of environmental mitigation expenses shall be included as Mitigation Costs, but no other attorneys' fees incurred by any Party shall be included.

(11) **Environmental Mitigation Requirements**. Any measure required as a result of any Environmental Review Process for activities which are part of or in furtherance of the 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement or the

Project described in the Final EIR/EIS for the IID Water Conservation and Transfer Project, certified by IID on June 28, 2002, as modified and supplemented by the Addendum thereto dated September 2003, but still including the Draft HCP, the HCP Mitigation Requirements, the transfer of up to 145 KAF in the aggregate as an Interim Surplus Backfill as referenced in the IID/DWR Transfer Agreement, and including the arrangement for ensuring adequate funding to pay for all required measures, but excluding activities and Costs incurred to address:

(i) Environmental impacts within the CVWD, and SDCWA service areas other than impacts related to the Salton Sea within the CVWD service area;

(ii) Environmental impacts associated with the All-American Canal and the Coachella Canal lining projects;

(iii) Environmental impacts associated with the Lower Colorado River, other than impacts that are attributable to the transfer of Conserved Water from IID to SDCWA pursuant to the 1998 IID/SDCWA Transfer Agreement; and

(iv) Any socioeconomic impacts.

(12) **Environmental Review Costs.** All Costs, including attorneys' fees, reasonably incurred by any Party in connection with any Environmental Review Process. Environmental Review Costs incurred prior to the Agreement Date shall be governed by Section 3.1 and shall not be included in Environmental Mitigation Costs.

(13) **Environmental Review Process**. Any process:

(i) To conduct environmental review and/or assessment required under CEQA, NEPA and applicable federal, state and agency regulations implementing those statutes;

(ii) To obtain any permit, approval, authorization, opinion, assessment or agreement pursuant to the Endangered Species Act ("ESA"), the California Endangered Species Act ("CESA"), the Natural Community Conservation Planning Act ("NCCPA"), the state and federal air quality laws, the California Water Code, the public trust doctrine, or any other federal or state environmental resource protection law or applicable federal or state regulations implementing same; and/or

(iii) To study and/or design any mitigation required to comply with CEQA, NEPA, ESA, CESA, NCCPA, the state and federal air quality laws, the California Water Code, or any other federal or state resource protection law or applicable federal or state regulations implementing same;

(iv) But not the Lower Colorado River Multi-Species Conservation Program among the States of California, Arizona and Nevada.

(14) **Expected Environmental Mitigation Costs.** The estimated present value costs of satisfying the Environmental Mitigation Requirements, which are stated and described in Exhibit A, attached hereto.

(15) **Expected HCP Mitigation Costs**. That portion of the Expected Environmental Mitigation Costs attributable to the HCP Mitigation Requirements, such Costs being described in Exhibit A.

(16) **HCP Mitigation Requirements**. All Environmental Mitigation Requirements described in Exhibit B attached hereto, and any modified or additional mitigation requirements that may be created pursuant to the HCP described in Section 5 herein. HCP Mitigation Requirements include, but are not limited to, actions to avoid, reduce, minimize, mitigate, or compensate for impacts on Covered Species and their habitat, and also actions to enhance the survival or recovery of the Covered Species.

(17) **Parties' Funds**. Funds required to be provided by the Parties to the QSA-JPA for Environmental Mitigation Requirements in the amounts set forth on Exhibit E.

(18) **Permits**. Collectively, incidental take permits issued by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. Section 1539(a)(1)(B) and by the California Department of Fish and Game pursuant to Fish and Game Code Sections 2081 and 2835.

(19) **Permit Effective Date**. The date the Permits take effect under applicable laws and regulations.

(20) **Remaining Environmental Mitigation Costs**. Environmental Mitigation Costs in excess of such Costs paid by the Parties' Funds.

(21) **Resource Approval Requirements.** The respective actions and responsibilities of the Parties, as lead agency or otherwise, undertaken in connection with the Resource Approvals contemplated by Section 6.2(2)(ii) of the QSA.

(22) **Review Requirements.** The Environmental Review and assessments undertaken by the respective Parties, as lead agency or otherwise.

(23) **State Obligation.** The amount, if any, of the Environmental Mitigation Costs required to be paid by the State of California pursuant to the QSA-JPA. The Parties understand the State Obligation to be an unconditional contractual obligation of the State of California not dependent on any further State action, and are relying on the State Obligation in order to comply with the extensive state and federal requirements that mandate Environmental Mitigation Requirements. In addition, the Parties are relying on the State Obligation in making contracts with third parties, including without limitation, landowners and farmers in the Imperial Valley who will be entering contracts to produce conserved water.

(24) **State Loan Guarantee**. A binding commitment by the California Infrastructure & Economic Development Bank to unconditionally guarantee the repayment in full of any outstanding debt incurred by the IID to fund capital improvements for the creation of Conserved Water provided for under the QSA and its Related Agreements, in an amount not to exceed One Hundred Fifty Million Dollars ($150,000,000) in 2003 dollars, in the event that the QSA term ends prior to Year 45 of the QSA or, in lieu of an unconditional guarantee, a reasonable economic equivalent. Such guarantee shall be without any rights of recourse, subrogation, reimbursement, contribution or indemnity against the IID.

(25) **Unexpected Environmental Mitigation Costs**. Any Costs required for satisfaction of Environmental Mitigation Requirements that exceed Expected Environmental Mitigation Costs.

(26) **Unexpected HCP Mitigation Costs**. Any Costs required for satisfaction of HCP Mitigation Requirements that exceed Expected HCP Mitigation Costs.

(27) **Unforeseen Circumstances.** Changes in circumstances affecting a species or geographic area covered by the HCP that could not reasonably have been anticipated by IID at the time of the preparation of the Draft HCP.

(28) **Wildlife Agencies**. Collectively, the U.S. Fish and Wildlife Service ("USFWS") and the California Department of Fish and Game ("CDFG").

1.3. Rules of Construction and Word Usage. Unless the context clearly requires otherwise:

(1) The Recitals to this Agreement are a part of this Agreement to the same extent as the Articles;

(2) The Exhibits attached to this Agreement are incorporated by reference and are to be considered part of the terms of this Agreement;

(3) The plural and singular numbers include the other;

(4) The masculine, feminine, and neuter genders include the others;

(5) "Shall," "will," "must," and "agrees" are each mandatory;

(6) "May" is permissive;

(7) "May not" is prohibitory;

(8) "Or" is not exclusive;

(9) "Includes" and "including" are not limiting;

(10) "Between" includes the ends of the identified range; and

(11) "Person" includes any natural person or legal entity.

ARTICLE 2
ENVIRONMENTAL MITIGATION MANAGEMENT

2.1. Ongoing Review Requirements. The Parties will cooperate and consult with one another with a view to assuring the timely and proper completion of all environmental reviews and assessments.

2.2. **Ongoing Resource Approval Requirements**.

(1) **Primary Responsibility**. After the Agreement Date, each Party serving as a lead agency, co-lead agency, applicant, petitioner or otherwise in a position of authority and responsibility with respect to any resource approval shall obtain the prior consent of the other Parties (which consent may not be unreasonably withheld) before entering into a binding agreement with any person, including a Party, which contains terms and conditions pertaining to such approval requiring the incurrence of significant Environmental Mitigation Costs that will be funded or reimbursed pursuant to this Agreement.

(2) **Cooperation and Consultation**. The Parties will cooperate and consult with one another, as appropriate, with a view to assuring the timely acquisition of all resource approvals.

2.3. **Mitigation Implementation Measures**.

(1) **Primary Responsibility**. Each Party serving as a lead agency, co-lead agency, applicant, petitioner or otherwise in a position of authority and responsibility with respect to the acquisition, construction or carrying out of Environmental Mitigation Requirements that will result in Environmental Mitigation Costs that will be funded or reimbursed pursuant to this Agreement shall exercise due care and prudence in the making of any decision and the performance of any activity relating to such measures.

(2) **Cooperation and Consultation**. The Parties will cooperate and consult with one another, as appropriate, with a view to assuring the timely and proper implementation of all Environmental Mitigation Requirements described in Section 2.3(1) at a reasonable cost consistent with the Parties' interests in minimizing their respective obligations under this Agreement and the public interest.

ARTICLE 3
ENVIRONMENTAL REVIEW AND LITIGATION COSTS

3.1. **Environmental Review Costs**. Within thirty (30) days after the Agreement Date, CVWD shall pay IID Two Hundred Thousand Dollars ($200,000). Except for the foregoing, and except as otherwise provided for in this Agreement or as a Party and one or more of the other Parties may otherwise agree under the IID/SDCWA Cost Sharing Protocol or under any other cost sharing protocol or similar written arrangement, each Party shall bear its own Environmental Review Costs incurred prior to or after the Effective Date.

3.2. **Environmental Litigation Costs**. It is contemplated that the Parties will join in the defense of any environmental litigation pertaining to the 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement. Each Party shall bear its own Environmental Litigation Costs incurred in connection with any such defense, except as such Party may otherwise agree pursuant to a joint defense agreement between or among one or more of the other Parties pertaining to any such defense and specifying the respective responsibilities of the parties to such agreement, including any cost-sharing with respect thereto.

3.3. **Federal Agency Reimbursement Claims.** If BOR, the USFWS, or any other federal agency request the Parties to reimburse it for any of its costs in consulting, participating in, or conducting an environmental assessment, or any part thereof, with respect to the Review Requirements or Resource Approval Requirements, and if the Parties agree to the request, then the Parties will share and pay such requested reimbursement as follows: thirty-three percent (33%) by IID, thirty-three percent (33%) by CVWD, and thirty-three percent (33%) by SDCWA. Each Party shall pay its share of any such requested reimbursement directly to the requesting agency and shall notify the other Parties of the date and amount of such payment. This Section shall not apply to reimbursement requests arising out of: (i) environmental impacts within the CVWD (other than Pupfish Conservation Measures 1, 2, and 3 outlined in the December 18, 2002 Biological Opinion issued by the USFWS) and SDCWA service areas; (ii) environmental impacts associated with the All-American Canal and the Coachella Canal lining projects; (iii) environmental impacts associated with the Lower Colorado River; and (iv) any socioeconomic impacts.

3.4. **California Agency Reimbursement Claims.** If the CDFG, or any other California State agency, requests the Parties to reimburse it for any of its costs in consulting, participating in, or conducting an environmental assessment, or any part thereof, with respect to the Review Requirements, or Resource Approval Requirements, and if the Parties agree to the request, then the Parties will share and pay such requested reimbursement as follows: thirty-three percent (33%) by IID, thirty-three percent (33%) by CVWD, and thirty-three percent (33%) by SDCWA. Each Party shall pay its share of any such requested reimbursement directly to the requesting agency and shall notify the other Parties of the date and amount of such payment. This Section shall not apply to reimbursement requests arising out of: (i) environmental impacts within the CVWD (other than Pupfish Conservation Measures 1, 2, and 3 outlined in the December 18, 2002 Biological Opinion issued by the USFWS) and SDCWA service areas; (ii) environmental impacts associated with the All-American Canal and the Coachella Canal lining projects; (iii) environmental impacts associated with the Lower Colorado River; and (iv) any socioeconomic impacts.

ARTICLE 4
ENVIRONMENTAL MITIGATION COSTS

4.1. **Allocation of Environmental Mitigation Costs.**

(1) **In General.** Environmental Mitigation Costs shall be paid to the QSA-JPA from the Parties' Funds in the amounts set forth in Exhibit D and on the schedules attached as exhibits to the QSA-JPA.

(2) **IID Contribution.** IID's total payments of Environmental Mitigation Costs shall not exceed Thirty Million Dollars ($30,000,000), as described in the 1998 IID/SDCWA Transfer Agreement, as amended as of the Closing Date of the QSA, and paid on the schedule attached to the QSA-JPA. IID shall also pay to the QSA-JPA the Settlement and Efficiency Opportunity Payment as required pursuant to the 1998 IID/SDCWA Transfer Agreement and IID/CVWD Acquisition Agreement on the schedule attached to the QSA-JPA.

(3) **Conditions Precedent.** As of the Closing Date, a binding commitment for the State Loan Guarantee in a form acceptable to the IID, and a binding commitment for the State Obligations in a form acceptable to the Parties shall have been obtained.

4.2. Payment of Unexpected and Remaining Environmental Mitigation Costs.

(1) **Unexpected Environmental Mitigation Costs.** Unexpected Environmental Mitigation Costs shall first be paid from any available Parties' Funds, and then from the State Obligation.

(2) **Remaining Environmental Mitigation Costs.** In the event that the State determines that the costs of Remaining Environmental Mitigation Costs during the term of the 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement under this Section 4.2(2) would be reduced if modifications were made to IID's operations, then IID shall make such modifications, provided that, with respect to each such modification:

(i) IID has approved the modification, which approval shall not be unreasonably withheld;

(ii) The modification has been approved by the Wildlife Agencies and all governmental permits and approvals required to implement the modification have been obtained;

(iii) The modification is capable of reasonable implementation in compliance with all applicable laws;

(iv) The cost of such modification, including, but not limited to, the cost of processing any required governmental permits and approvals, the cost of processing any necessary environmental review, and the cost of implementing any mitigation measures required as a result of environmental review or any governmental permit or approval, shall be deemed included in Expected, Unexpected or Remaining Unexpected Mitigation Costs;

(v) The modification does not require any new fallowing, or the continuation of any existing fallowing, or any request for water deliveries, or the use of different crops, different acreage, a different amount of acreage or different farming methods, or the like; and

(vi) If the modification involves terminating or reducing the operation of a capital project, the affected owner/operator (IID or a farmer) can reasonably return to operations or farming as it existed prior to the installation of the capital project.

4.3. Payment and Reimbursement of Environmental Mitigation Costs, as Incurred.

(1) **In General.** Each Party will maintain proper accounting records detailing the Environmental Mitigation Costs paid by it to the QSA-JPA. Except as may otherwise be agreed by the Parties, indirect costs shall not be counted as incurred costs. For purposes of this Agreement, "indirect costs" include, but are not limited to, overhead costs, losses of revenue from any source and other opportunity costs of any kind.

(2) **Quantification of Incurred Costs.** Each Party will provide to the other Parties within 30 days after the end of each calendar quarter a detailed report setting forth the Environmental Mitigation Costs paid by it during such quarter. The form of such report will be as agreed from time to time by the Parties. Each such report will be subject to audit and verification by any Party, at that Party's expense.

(3) **Costs In the Event of Termination.** If the 1998 IID/SDCWA Transfer Agreement and/or the IID/CVWD Acquisition Agreement are terminated, the obligation of the Parties' Funds and of the State to pay for Environmental Mitigation Costs and Remaining Environmental Mitigation Costs attributable to the impacts caused by the Conserved Water transferred or acquired during the term of the 1998 IID/SDCWA Transfer Agreement and/or the IID/CVWD Acquisition Agreement shall continue as long as Environmental Mitigation is necessary to mitigate any continuing impacts that last beyond termination.

(4) In the event that the State determines that the costs of Remaining Environmental Mitigation Costs after termination of the 1998 IID/SDCWA Transfer Agreement and/or the IID/CVWD Acquisition Agreement under this Section 4.3(4) would be reduced if modification were made to IID's operations or to the operations of a farmer within IID's service area, then IID shall make such modifications, provided that, with respect to each such modification:

(i) IID has approved the modification, which approval shall not be unreasonably withheld;

(ii) The modification has been approved by Wildlife Agencies and all governmental permits and approvals required to implement the modification have been obtained;

(iii) The modification is capable of reasonable implementation in compliance with all applicable laws;

(iv) The cost of such modification, including, but not limited to, the cost of processing any required governmental permits and approvals, the cost of processing any necessary environmental review, and the cost of implementing any mitigation measures required as a result of environmental review or any governmental permit or approval, shall be deemed included in Remaining Mitigation Costs;

(v) The modification does not require any new fallowing, or the continuation of any existing fallowing, or any request for water deliveries, or the use of

different crops, different acreage, a different amount of acreage or different farming methods, or the like; and

(vi) If the modification involves terminating or reducing the operation of a capital project, the affected owner/operator (IID or a farmer) can reasonably return to operations or farming as it existed prior to the installation of the capital project.

In the event that the State determines that the costs referred to in the preceding paragraph could be reduced through modification of the operations of a farmer within the IID service area, the State shall notify IID of the estimated amount of such reduction in costs and shall request that IID request that the farmer take such action and/or modify operations so as to reduce said costs. IID shall thereupon determine whether the requested modification meets the requirements of subparagraphs (i) through (vi) of the preceding paragraph and if it does, shall request that the farmer undertake such modifications. If the farmer fails to undertake such modifications, the State shall not be obligated to pay any such costs to the extent that the requirement for such mitigation could be avoided or reduced by the requested changes.

ARTICLE 5
HABITAT CONSERVATION PLAN

5.1. **Approval of HCP.** Commencing with the Agreement Date, SDCWA and CVWD, in consultation and collaboration with IID, shall use their best efforts to cause the USFWS and the CDFG to approve, prior to December 31, 2006, a habitat conservation plan/natural community conservation plan ("HCP") and related Permits which satisfy all of the standards and criteria described in Section 5.2. The obligation to utilize such best efforts shall continue except to the extent that coverage of a species is deemed infeasible pursuant to Section 5.4 below. "Best efforts" means the prudent, diligent and good-faith efforts of SDCWA and CVWD to secure the HCP and related Permits as a fiduciary for the benefit of IID, but shall not require the expenditure by SDCWA and CVWD together of more than Five Million Dollars ($5,000,000) in 2002 dollars to fund third-party consultants tasked with developing the HCP. . CVWD shall not be required to commit its staff and in-house resources in excess of two qualified employee equivalents.

5.2. **HCP Standards and Criteria.** The HCP and the Permits shall:

(1) Comply with all applicable requirements of the ESA, CESA and Natural Community Conservation Planning Act;

(2) Provide IID with the authority to implement the Covered Activities in compliance with ESA and CESA;

(3) Provide IID with the authority to take the Covered Species incidental to the Covered Activities pursuant to ESA and CESA. Such take authority shall become effective no later than (i) the Permit Effective Date with regard to any Covered Species that is listed as an endangered species or threatened species under ESA as of the Permit Effective Date, (ii) the Permit Effective Date with regard to any Covered Species that is listed as a candidate species, threatened species or endangered species pursuant to CESA as of the Permit Effective Date, (iii) immediately upon the listing (and without further action or approval by USFWS) of any other

Covered Species as a threatened species or endangered species pursuant to ESA after the Permit Effective Date, and (iv) immediately upon the listing (and without any further approval action or approval by CDFG) of any Covered Species that is listed as a candidate species, threatened species or endangered species pursuant to CESA after the Permit Effective Date;

(4) Have a term of years not less than forty-five (45) years from the Permit Effective Date, except that coverage for the white pelican, black skimmer, and double-crested cormorant may be limited to a term of fifteen (15) years from the Permit Effective Date;

(5) Not impose on IID, or otherwise require IID to fund, support or implement, any Environmental Mitigation Requirements other than the HCP Mitigation Requirements described on Exhibit A. In no event shall IID be obligated to pay for any Costs of complying with or implementing the HCP or complying with the Permits, in excess of Section 4.1(2) or other limitation on IID's obligation to pay for mitigation costs.

(6) Include an Implementation Agreement among IID and the Wildlife Agencies that describes the rights and obligations of IID and the Wildlife Agencies with regard to the implementation of the HCP. The Implementation Agreement shall, at a minimum, include the following covenants in a form that is valid, binding and enforceable by IID:

(i) In the event of Unforeseen Circumstances, USFWS and CDFG will not require from IID the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources with regard to the impacts of the Covered Activities on the Covered Species;

(ii) Except for the HCP Mitigation Requirements described on Exhibit A, no limitations or restrictions shall be imposed on IID, either directly or indirectly, by USFWS or CDFG with regard to the impacts of the Covered Activities on the Covered Species or with regard to the impacts on the Covered Species attributable to Changed Circumstances;

(iii) USFWS shall agree that the Section 10(a) Permit shall constitute a Special Purpose Permit under 50 CFR section 21.27, for the take of all Covered Species identified at 50 CFR section 10.13, excluding bald eagles which are listed under ESA as of the Effective Date. The Special Purpose Permit shall be valid for a period of three (3) years from its Effective Date, provided the Section 10(a) Permit remains in effect for such period. The Special Purpose Permit shall be renewed, provided the IID remains in compliance with the terms of the Implementation Agreement and the Section 10(a) Permit. Each such renewal shall be valid for a period of three years, provided that the Section 10(a) Permit remains in effect for such period. USFWS will not refer the incidental take of any bald eagle, Haliaeetus leucocephalus, for prosecution under the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. §§ 703-712), or the Bald and Golden Eagle Protection Act of 1940, as amended (16 U.S.C. §§ 668-668d), if such take is in compliance with the Mitigation Requirements;

(iv) In any consultation that may be required or processed pursuant to Section 7 of ESA (16 U.S.C. section 1536(a) with regard to the Covered Activities

analyzed in the ESA intra-Service Section 7 consultation for the HCP, the USFWS shall, to the maximum extent appropriate and permitted by law, rely upon, and utilize, the ESA biological opinion completed with regard to analysis of the HCP and, if appropriate, programmatic Section 7 opinions governing Covered Species;

(v) In the event that a critical habitat determination is made for any Covered Species, no additional Mitigation shall be required of IID that is in addition to the Mitigation Requirements; and.

(vi) Neither USFWS or CDFG shall suspend or revoke any of the Permits without first conducting a formal adjudicatory hearing substantially in accordance with the procedures applicable to hearings conducted pursuant to Sections 554-556 of the federal Administrative Procedure Act to the extent permitted by applicable law.

(7) Be authorized by complete and final environmental documentation pursuant to CEQA and NEPA.

5.3. **Exceptions**. Notwithstanding the provisions of Sections 5.1 and 5.2, above, SDCWA and CVWD shall not be required to provide coverage under the HCP for certain Covered Species if such coverage is deemed infeasible. Coverage shall be deemed infeasible under the following circumstances:

(1) As to Class B Covered Species, if, as of June 1, 2005, despite the best efforts of SDCWA and CVWD (i) the Wildlife Agencies determine (by final agency action) that coverage of a species or the provisions of coverage of a species is prohibited by ESA or CESA, or (ii) SDCWA and CVWD reasonably determine that the Cost of such coverage or the provisions of such coverage, when combined with all other Expected HCP Mitigation Costs (as adjusted to reflect any then-identifiable actual Costs or updated estimates), will exceed the Expected HCP Mitigation Costs;

(2) As to Class A Covered Species, SDCWA and CVWD shall have utilized their continuous best efforts until December 31, 2005, to obtain coverage for such species, but (i) the Wildlife Agencies have determined (by final agency action) as of December 31, 2006, that coverage of a species or the provisions of coverage of a species is prohibited by ESA or CESA, or (ii) SDCWA and CVWD reasonably determine that the Cost of such coverage or the provisions of such coverage, when combined with all other Expected HCP Mitigation Costs (as adjusted to reflect any then-identifiable actual Costs or updated estimates), will exceed the total amount of Expected HCP Mitigation Costs described in Exhibit A. In the event that IID is relieved of all obligations under applicable law and regulation to undertake some portion of the HCP Mitigation Requirements described in Exhibit B, the amount of Expected HCP Mitigation Costs for purposes of this Section 5.3 shall be adjusted to reflect any change in said requirements.

5.4. **Revival of Efforts**. In the event that coverage of a Class A or Class B Covered Species is deemed infeasible as of December 31, 2006, and June 1, 2005, respectively, pursuant to subsection 5.3(i) and (ii) above, and if new information becomes available which indicates

that approval of coverage of that species by the Wildlife Agencies is feasible and within the budget of Expected HCP Mitigation Costs (as adjusted to reflect any then-identifiable actual Costs or updated estimates), SDCWA and CVWD shall revive their best efforts to obtain coverage for that species.

5.5. **Modifications to IID Operations**. In the event that SDCWA and CVWD determine that the cost of satisfying the requirements of subsections 5.1 and 5.2, above, would be reduced if modifications were made to IID's operations, then IID shall make such modifications, provided that, with respect to each such modification:

(i) IID has approved the modification, which approval shall not be unreasonably withheld;

(ii) The modification has been approved by USFWS and CDFG and all governmental permits and approvals required to implement the modification have been obtained;

(iii) The modification is capable of reasonable implementation in compliance with all applicable laws;

(iv) The cost of such modification, including, but not limited to, the cost of processing any required governmental permits and approvals, the cost of processing any necessary environmental review, and the cost of implementing any mitigation measures required as a result of environmental review or any governmental permit or approval, shall be deemed included in Expected HCP Mitigation Costs;

(v) The modification does not require a change in operations by any individual farmer(s);

(vi) The modification does not require any new fallowing, or the continuation of any existing fallowing, or any request for water deliveries, or the use of different crops, different acreage, a different amount of acreage or different farming methods, or the like; and

(vii) If the modification involves terminating or reducing the operation of a capital project, then the affected owner/operator (IID or a farmer) has reasonably determined that the termination/reduction will not adversely affect its operations or farming, compared to conditions prior to the termination/reduction of operations.

5.6. **Breach of Agreement**. Any failure of the IID, SDCWA or CVWD to satisfy its respective obligations described in this Article 5 shall constitute a material breach of this Agreement. The Parties shall utilize the procedures of Sections 7.1 and 7.3 to resolve any dispute regarding the existence of a material breach under this Section.

5.7. **Compliance with Laws**. IID shall have the right, at any time during the term of the 1998 IID/SDCWA Transfer Agreement and the IID/CVWD Acquisition Agreement, to cease any activity if IID, acting in good faith and after receiving a written notification or warning, determines that continuation of such activity will: (i) violate ESA, CESA, any regulations or

orders promulgated pursuant thereto, the terms and conditions of any ESA or CESA permit, approval or agreement; or (ii) otherwise violate applicable state, federal or local laws, ordinances or regulations, unless IID is immune from such liability pursuant to statute. Prior to making such determination, if circumstances permit, IID shall consult with the other Parties to this Agreement and with the Wildlife Agencies, and other agency with the authority to enforce the statute, regulation, permit, order or approval that is the subject of the proposed IID determination. IID shall not cease the activity if the agency with jurisdiction to enforce the applicable statute, regulation, permit, order or approval, provides IID with adequate assurances, in writing, that the continuation of the activity will not violate the applicable statute, regulation, permit, order or approval. IID must utilize a substitute activity for the ceased activity, if such substitute is environmentally, physically and economically available. Any additional costs for the substitute activity shall be treated as an Unexpected HCP Mitigation Cost.

ARTICLE 6
CONTRACT ADMINISTRATION

6.1. Contract Managers.

(1) **Designation of Contract Managers.** In order to facilitate and implement this Agreement, the contract manager designated by each Party herein shall be responsible for managing and implementing that Party's performance hereunder. Any Party may change its designated contract manager at any time by prior written notice to the other Parties. The initial contract managers are:

For CVWD: Steve Robbins

For IID: Tina A. Shields

For SDCWA: Larry Purcell

(2) **Communications.** All correspondence, notices or other matters related to this Agreement, including payments, shall be directed to the appropriate contract manager designated above.

(3) **Administrative Protocols.** The contract managers will develop and amend from time to time written administrative protocols, subject in each case to the approval of the Parties or their delegates.

ARTICLE 7
DISPUTES

7.1. Disputes Among or Between the Parties. The Parties or their delegates shall seek to resolve any dispute concerning the interpretation or implementation of this Agreement through negotiation involving, as and when appropriate, the general manager or chief executive officer of each of the Parties. Any unresolved dispute among or between CVWD, IID and/or SDCWA under Articles 4 and 5 of this Agreement shall be resolved pursuant to Section 7.3. Any other unresolved dispute among or between Parties under this Agreement shall be resolved

by litigation pursuant to Section 7.2. The Parties consent to suit in Federal court to enforce the terms of this Agreement.

7.2. Action or Proceeding Between the Parties. Each Party acknowledges that it is a "local agency" within the meaning of § 394(c) of the California Code of Civil Procedure ("CCP"). Each Party further acknowledges that any action or proceeding commenced by one Party against the other would, under § 394(a) of the CCP, as a matter of law be subject to being transferred to a "Neutral County," or instead, having a disinterested judge from a Neutral County assigned by the Chairman of the Judicial Council to hear the action or proceeding. Each party therefore:

(1) Stipulates to the action or proceeding being transferred to a Neutral County or to having a disinterested judge from a Neutral County assigned to hear the action or proceeding;

(2) Waives the usual notice required under the law-and-motion provisions of Rule 317 of the California Rules of Court;

(3) Consents to having any motion under § 394(c) heard with notice as an ex parte matter under Rule 379 of the California Rules of Court; and

(4) Acknowledges that this Agreement, and in particular this section, may be submitted to the court as part of the moving papers.

Nothing in this section, however, impairs or limits the ability of a Party to contest the suitability of any particular county to serve as a Neutral County.

7.3. Resolution of Arbitration Disputes. Disputes among or between Parties under Articles 4 and 5 of this Agreement shall be resolved pursuant to the provisions of this Article.

(1) Any dispute which cannot be resolved by consensual agreement shall be resolved through binding arbitration by a panel of arbitrators in an arbitration proceeding conducted in a Neutral County, or such other location as the Parties may agree. Arbitration proceedings may be initiated by any Party sending a demand for arbitration to the other Parties in conformance with the Notice provisions of this Agreement. The Parties shall impanel a group of three (3) arbitrators by each selecting an arbitrator of its choice who shall then select the third (3rd) member of the panel. At least one of the arbitrators must be a person who has actively engaged in the practice of law with expertise deciding disputes and interpreting contracts. Prior to the commencement of proceedings, the appointed arbitrators will take an oath of impartiality. The Parties shall use their reasonable best efforts to have the arbitration proceeding concluded within ninety (90) Business Days.

(2) In rendering their determination, the arbitrators shall determine the rights and obligations of the Parties according to the substantive and procedural laws of California. All discovery shall be governed by the CCP with all applicable time periods for notice and scheduling provided therein being reduced by one-half (½). The arbitrators may establish other discovery limitations or rules. The arbitration process will otherwise be governed by the Commercial Arbitration Rules of the American Arbitration Association. All issues regarding

compliance with discovery requests shall be decided by the arbitrators. A decision by two (2) of three (3) arbitrators will be deemed the arbitration decision. The arbitration decision shall be in writing and shall specify the factual and legal bases for the decision. The decision of such arbitrators shall be final and binding upon the parties, and judgment upon the decision rendered by the arbitration may be entered in the Neutral County superior court.

(3) The costs (including, but not limited to, reasonable fees and expenses of counsel and expert or consultant fees and costs), incurred in an arbitration (including the costs to enforce or preserve the decision) shall be borne by the Party(ies) against whom the decision is rendered. If the decision is not clearly against one Party on one or more issues, each Party shall bear its own costs. The arbitration decision shall identify whether any Party shall be responsible for the costs of the other Party(ies).

ARTICLE 8
GENERAL PROVISIONS

8.1. Term. This Agreement shall commence as of the Closing Date and shall terminate on the Termination Date, except that the requirements of Section 4.3(5) shall survive the Termination Date.

8.2. Amendment. This Agreement may be amended only by a written instrument signed by the IID, SDCWA and CVWD.

8.3. Attorneys' Fees. If any Party commences a legal proceeding for any relief against any other Party to this Agreement arising out of this Agreement, the losing Party shall pay the prevailing Party's legal costs and expenses, including, but not limited to, reasonable attorneys' fees and court costs, except as may otherwise be specified in the decision or order entered in said proceeding.

8.4. Authority. Each Party represents and warrants that: (i) it has the requisite power and authority to enter into and perform its obligations under this Agreement; (ii) the individuals executing this Agreement on its behalf are the duly authorized agents of such Party and are authorized to do so under the Party's governing documents; and (iii) the terms of this Agreement are binding upon and enforceable against such Party in accordance with its terms.

8.5. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but both of which, taken together, shall constitute one and the same Agreement after each party has signed such a counterpart.

8.6. **Effective Date**. This Agreement shall be effective on the Effective Date of the QSA.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Date first written above.

"CVWD" COACHELLA VALLEY WATER DISTRICT

By: _____
Title: _____

"IID" IMPERIAL IRRIGATION DISTRICT

By: _____
Title: _____

By: _____
Title: _____

"SDCWA" SAN DIEGO COUNTY WATER AUTHORITY

By: _____
Title: _____

EXHIBIT A

General Notes

1. Except as noted, all costs are in year 2002 dollars. Future costs have been discounted 3% for present value estimates.
2. Costs for each measure include 3 phases: 1) design/permiting, 2) implementation/construction, and 3) operations & maintenance for the 45 year project period.
3. Costs for each measure are dependent on the specific timing and duration for each phase. Phases were initiated when necessary to provide offsets for expected impacts.
4. Stabilization of the receding Salton Sea shoreline utilizes gravel cover. Costs for alternative measures could vary substantially.
5. No costs are included for any unknown future mitigation measures that might arise from required studies.
6. No specific sites for habitat creation measures have been identified. Costs are planning estimates only and may change depending upon location, local economic conditions, final design, etc.
7. No additional commitment of land, water or other resources is required for adaptive management.
8. Attempts have been made to eliminate duplication of costs among measures.
9. Supporting documentation for each cost estimate is available at CVWD, IID, MWD, and SDCWA.

Estimated HCP Costs

Condition No.	Mitigation Measure	Present Value In Thousands ($2002) - Yr 45	Notes and explanation of zero-cost items
General - 1	Hire full-time biologist to manage HCP and participate on HCP Implementation Team.	3,678	First year O&M $150,000. Begins in 2003.
General - 2	Convene and facilitate HCP IT.	270	Reimbursement for CDFG and USFWS participation on HCP IT. IID biologist participation addressed in General-1. Begins in 2003.
Salton Sea - 2	Pupfish refugium pond.	340	Pond creation to be implemented at end of 15 Year Minimization Plan.
Salton Sea - 3	Tamarisk scrub habitat surveys and creation.	11,132	Surveys and habitat replacement to begin at end of 15 Year Minimization Plan. Maximum creation assumes 1321 acres.
Tree Habitat - 1	Tree habitat surveys and creation.	751	Surveys and habitat replacement to begin at start of efficiency conservation in 2008. Irrigation water to establish tree habitat (5 years) is included at 5AF/acre/year. Irrigation water assumed at $16/AF. Maximum creation assumes 34.1 acres.

Tree Habitat - 2	Seepage community surveys and creation.	644	Surveys and habitat replacement to begin at start of efficiency conservation in 2008. Irrigation water to establish tree habitat (5 years) is included at 5AF/acre/year. Irrigation water assumed at $16/AF. Maximum creation assumes 30 acres.
Tree Habitat - 3	Site surveys for construction scheduling.	7	Surveys to begin at start of efficiency conservation in 2008.
Drain Habitat - 1	Creation of managed marsh habitat.	23,682	73 acres to be implemented in 2003, 117 acres to be implemented at start of efficiency conservation period in 2008, plus the balance of 462 acres to be constructed starting in 2017. The maximum total acreage is 652. Water to sustain marsh is included at 12AF/acre/year with 50% from existing drainage and 50% from purchased irrigation water. Irrigation water assumed at $16/AF. Redundant with SWRCB order.
Drain Habitat - 2	Avoid dredging river deltas between Feb.15 and Aug. 31.	0	No additional costs assumed for scheduling of maintenance dredging.
Drain Habitat - 3	Site surveys to avoid construction disturbance of covered species.	0	No additional costs assumed for crews to survey areas for wildlife prior to beginning work.
Desert Habitat - 1	Worker education program - training and materials.	37	Begins in 2003.

Desert Habitat - 2	Precautions for workers during O&M of canals and drains.	38	Begins in 2003.
Desert Habitat - 3	Habitat surveys, construction monitoring, and vegetation restoration.	436	Begins in 2003.
Desert Habitat - 4	Habitat surveys and update worker manual.	476	Habitat surveys and worker training manual to begin in 2003.
Desert Habitat - 5	Desert habitat acquisition and management.	118	Habitat acquisition and management to begin at start of efficiency conservation in 2008. Maximum acquisition assumes 100 acres.
Owl - 1	Worker education program for canal and drain maintenance.	60	Begins in 2003. Some possible redundancy with Desert Habitat-1.
Owl - 2	Visual inspection of banks. Mark burrows. Develop standard operating procedures.	920	Operating procedures develop in 2006. Habitat protection measures begin at start of efficiency conservation period in 2008.
Owl - 3	Precautions for grading of spoils near canals and ditches.	0	No additional cost assumed for taking precautions during grading of spoils.
Owl -4	Avoid disturbing burrows. Fill burrows to maintain channel.	2,014	Habitat measures to begin at start of efficiency conservation period in 2008.
Owl - 5	Manage location and schedule of facility construction.	60	Habitat measures to begin at start of efficiency conservation period in 2008.
Owl - 6	Maintain current techniques for canal and drain maintenance.	0	No additional cost assumed to maintain current techniques.
Owl - 7	Owl abundance, distribution, and demographic surveys.	532	Begins in 2003.

Owl - 8	Avoid disturbing burrows. Replace impacted burrows at 2:1 ratio.	344	Habitat replacement to begin at start of efficiency conservation period in 2008.
Owl - 9	Farmer and public education program.	43	Begins in 2003.
Pupfish - 1	Maintain current levels of pupfish habitat.	862	Habitat maintenance to begin at start of efficiency conservation period in 2008. Redundant with SWRCB order.
Pupfish - 2	Minimize selenium impacts on pupfish.	4,383	Drain channel management to begin at start of efficiency conservation in 2008. Redundant with SWRCB order.
Pupfish - 3	Modifications to increase amount of pupfish drain habitat.	3,658	Habitat creation to begin at start of efficiency conservation period in 2008. Redundant with SWRCB order.
Pupfish - 4	Protocol for surveys to monitor pupfish presence.	863	Protocol developed by start of efficiency conservation period in 2008.
Pupfish - 5	Evaluate effect of drain maintenance on pupfish.	45	Study begins at start of efficiency conservation period in 2008.
Pupfish - 6	Gradual dewatering and salvage of stranded pupfish.	3,469	Fish salvage begins at start of efficiency conservation period in 2008. Redundant with SWRCB order.
Razorback Suckers - 1	Salvage fish and return to Colorado River.	40	Fish salvage begins at start of efficiency conservation period in 2008. Redundant with SWRCB order.

Agriculture - 1	Install markers on tailwater pump power lines.	40	Marker installation begins at start of efficiency conservation period in 2008.
Agriculture - 2	Plant and maintain cover crops or ridge till lands to conserve water.	360	Begins in 2003.
Other Species - 1	Implement species surveys and submit study program.	738	Begins in 2003.
Other Species - 2	Implement impact avoidance and minimization measures.	817	Begins in 2004.
Monitoring and Adaptive Management	Monitoring and adaptive management described in Chapter 4 of draft HCP.	0	Costs included in individual measures listed above are assumed to cover adative management.
	TOTAL HCP	**60,857**	

Estimated 2002 Biological Opinion Portion of HCP Costs

Condition No.	Mitigation Measure	Present Value In Thousands ($2002) - Yr 45	Notes and explanation of zero-cost items
15 Year Minimization Plan	Acquire and discharge water to the Salton Sea.	50,000	Water to avoid material change in Salton Sea elevation and salinity for 15 years. Redundant with SWRCB order.
Pupfish CM 2	Pupfish selenium toxicity study. Pupfish and selenium monitoring. Develop mitigation. Study of sources and management of selenium.	939	Begins in 2003. Includes selenium studies required by SWRCB.
Willow Flycatcher CM 1	Willow flycatcher breeding habitat evaluation.	228	Habitat surveys to begin at start of efficiency conservation period in 2008.
Willow Flycatcher CM 2	Habitat monitoring and replacement.	733	Habitat monitoring and replacement to begin at end of 15 Year Minimization Plan. Possible partial redundancy with Tree Habitat 1 & 2.
Willow Flycatcher CM 3	Long-term monitoring plan.	24	Management plan developed at end of 15 Year Minimization Plan. Possible partial redundancy with Tree Habitat 1 & 2.
Willow Flycatcher CM 4	Willow flycatcher take evaluation.	0	Addressed by Willow Flycatcher CM 1.
Brown Pelican CM 2	Roost site creation and monitoring.	1,175	No Year 1 capital cost; habitat creation to be implemented in 2009.
	TOTAL 2002 BO	**53,099**	

Estimated CEQA Costs

Condition No.	Mitigation Measure	Present Value in Thousands ($2002) - Yr 45	Notes and explanation of zero cost items
Water Quality			
WQ-2	Selenium will exceed ambient water quality criteria.	0	Mitigation determined infeasible. Significant and unavoidable impact.
WQ-4	Selenium will exceed ambient water quality criteria.	0	Mitigation determined infeasible. Significant and unavoidable impact.
WQ-5	Selenium will exceed ambient water quality criteria.	0	Mitigation determined infeasible. Significant and unavoidable impact.
WQ-7	Selenium will exceed ambient water quality criteria.	0	Mitigation determined infeasible. Significant and unavoidable impact.
QSA-WR-1	Selenium will exceed ambient water quality criteria.	0	Mitigation determined infeasible. Significant and unavoidable impact.
	Water Quality Subtotal	**0**	

Agricultural Resources			
AR-1	Prohibit use of non-rotational fallowing. Otherwise, no mitigation measures.	0	No costs for prohibiting use of non-rotational fallowing.
QSA-AR-1	Non-fallowing conservation measures or short term fallowing.	0	Addressed by measure AR-1.
SWRCB-HCP-AR-2	Conversion of up to 700 acres of prime farmland to create habitat.	0	Mitigation determined infeasible. Significant and unavoidable impact.
SWRCB-AR-1	Reclassify up to 50,000 acres of prime farmland or farmland of statewide importance.	0	Addressed by AR-1.
	Agricultural Resources Subtotal	**0**	
Recreation			
R-7	Temporary and permanent relocation of boat launch facilities.	1,600	Salton Sea water level adjustment measures assumed to begin at end of 15 Year Minimization Plan. 8 boat launch facilities relocated every 3 years through 2040 as necessary.
R-10	Temporary and permanent relocation of camping facilities.	2,889	Salton Sea water level adjustment measures assumed to begin at end of 15 Year Minimization Plan. 88 campsites relocated every 6 years through 2040 as necessary.
QSA-RR-3	Relocation of Salton Sea recreation facilities or use of Conserved Water.	0	Addressed by measures R-7 and R-10.
SWRCB-R-7	Temporary and permanent relocation of boat launching facilities.	0	Addressed by R-7.
SWRCB-R-8	Reduced sportfishing opportunities.	0	Addressed by 15 Year Minimization Plan.

SWRCB-R-9	Implement SSHCS to avoid salinity impacts.	0	Addressed by 15 Year Minimization Plan and Salton Sea 2.
SWRCB-R-10	Temporary and permanent relocation of campgrounds and ancillary facilities.	0	Addressed by R-10.
	Recreation Subtotal	**4,489**	

Air Quality			
AQ-2	Minimize PM10 emissions during construction and operation of efficiency conservation measures.	1,650	Begins in 2008. Redundant with SWRCB order.
AQ-3	Minimize PM10 emissions during fallowing through conservation measures, soil stabilization, etc.	14,895	Cost includes first year fallowing of 2,500 acres. Begins in 2003.
AQ-4	General comformity determination.	12	Begins in 2008.
AQ-7	Access restriction, research, monitoring. Obtain emission offsets and [or] direct emission reductions at the Sea.	36,774	Monitoring and research begins in 2008. Salton Sea water level adjustment measures assumed to begin three years after end of 15 Year Minimization Plan, and be implemented continuously for 20 years.
EJ-2	Access restriction, research, monitoring, and ERCs.	0	Addressed by AQ-7.
EJ-3	Access restriction, research, monitoring, and ERCs.	0	Addressed by AQ-7.
QSA-AQ-1	Construction SOPs and agricultural BMPs for dust control.	0	SOPs addressed in unit construction costs and dust control measures addressed under AQ-2 and AQ-3.
QSA-AQ-2	Construction BMPs for NOx, fugitive dust.	0	BMPs included in unit construction costs and dust control measures addressed under AQ-2 and AQ-3.
QSA-AQ-3	Fugitive dust from decline in Salton Sea levels.	0	Addressed by AQ-7.
SWRCB-AQ-3	Dust control measures.	0	Addressed by AQ-3.

SWRCB-AQ-7	Access restriction, research, monitoring. Obtain emission offsets and direct emission reductions at the Sea.	0	Addressed by AQ-7.
	Air Quality Subtotal	**53,331**	
Cultural Resources			
CR-1	Cultural resource surveys prior to construction of water conservation measures.	31	Surveys to begin in 2003. Assumes preconstruction surveys for 100 sites over a 15 year period with 5 sites requiring testing and recovery.
CR-2	Protect cultural resources during construction and operation.	0	Addressed by CR-1.
CR-5	Protect cultural resources during reduced flow to Salton Sea. Conduct archaelogical surveys.	87	Salton Sea water level adjustment measures assumed to begin three years after end of 15 Year Minimization Plan.
ITA-1	Control of public access on exposed tribal lands.	0	Addressed by CR-5.
QSA-CR-3	Cutural Resource Surveys.	0	Addressed by CR-5.
	Cultural Resources Subtotal	**118**	

Noise			
N-1	Permanent or temporary sound barriers for construction noise sources.	13	Barriers constructed at start of efficiency conservation period in 2008.
N-2	Permanent sound barriers for pumps in noise-sensitive areas.	15	Barriers constructed at start of efficiency conservation period in 2008.
N-3	Permanent sound barriers for interceptor pumps in noise-sensitive areas.	3	Barriers constructed at start of efficiency conservation period in 2008.
N-4	Permanent or temporary sound barriers for noisy equipment.	0	Addressed by N-1 through N-3.
QSA-N-1	Construction BMPs, sound barriers.	0	Addressed by N-1.
	Noise Subtotal	**31**	

Geologic Resources			
QSA-GSM-1	Minimize soil erosion through watering, paving, limiting vehicle speeds, crusting agents, and construction monitoring.	1,999	Includes storm water planning and related BMPs. PM10 dust control elements addressed by AQ-2.
QSA-GSM-3	Construction BMPs for soil erosion. Monitor water levels for risk of liquefaction.	0	BMPs included in unit construction costs and dust control measures addressed under AQ-2, AQ-3 and QSA-GSM-1.
	Geologic Resources Subtotal	**1,999**	
Hazards			
QSA-HHM-1	Assess impacts on local emergency response plans. Complete Phase I studies for potential contamination.	268	Assessment to be implemented at start of efficiency conservation period in 2008. Assumes 10 sites require assessment and 5 sites require a Phase 1 audit.
	Hazards Subtotal	**268**	
Aesthetics			
A-1	Relocate recreation facilities and develop interpretive facilities and materials.	0	Costs addressed in measures R-7 and R-10.
SWRCB-A-1	Aesthetic impacts from drop in Salton Sea level.	0	Addressed by 15 Year Minimization Plan and A-1.
	Aesthetics Subtotal	**0**	
	TOTAL CEQA	**60,236**	

Estimated CESA 2081 Costs

Condition No.	Mitigation Measure	Present Value In Thousands ($2003) - Yr 45	Notes and explanation of zero-cost items
Backwater/Marsh	Create and maintain 16.25 acres of marsh and backwater habitat	1,268	Begins 2003, to be completed within 5 years
	TOTAL CESA 2081	**1,268**	

Note: CESA LCR 2081 cost estimate is for mitigation acreage and actions that are in addition to those required in the 2001 Lower Colorado River BO, and assumes that BO measures will be acceptable as satisfaction of comparable 2081 requirements.

Estimated 2001 Lower Colorado River BO Costs

Condition No.	Mitigation Measure	Present Value in Thousands ($2001) - Yr 45	Notes and explanation of zero cost items:
Conservation Measure 1	Stock 10,000 sub-adult razorback suckers into the Colorado River	*	Included in funding agreement
Conservation Measure 2	Create, restore, and maintain 38.25 acres of marsh and backwater habitat	*	Included in funding agreement
Conservation Measure 3	Fund the capture of wild-born or F1 generation bonytails	*	Included in funding agreement
Conservation Measure 4	Restore and maintain 186 acres of southwestern willow flycatcher habitat along the LCR between Parker and Imperial Dams	*	Included in funding agreement
	TOTAL 2001 BO	**3,000**	

* Mitigation Measures shall be accomplished through an agreement with the U.S. Bureau of Reclamation, under which Reclamation shall undertake all required measures in the 2001 LCR BO attributable to the transfer of 200,000 AFY in return for payment of $3 million in 2001 dollars.

EXHIBIT B

HCP Mitigation Requirements

The HCP Mitigation Requirements include the following measures and requirements, all as described in greater detail in the June 2002 Draft HCP and the December 18, 2002 Biological Opinion issued by the U.S. Fish and Wildlife Service, as applicable:

June 2002 Draft HCP:

General – 1

General – 2

Salton Sea – 2

Salton Sea – 3, except that the survey of the areas designated as shoreline strand and adjacent wetland shall commence in 2018.

Tree Habitat – 1; Tree Habitat – 2; Tree Habitat – 3

Drain Habitat – 1; Drain Habitat – 2; Drain Habitat – 3

Desert Habitat – 1; Desert Habitat – 2; Desert Habitat – 3; Desert Habitat – 4; Desert Habitat – 5

Owl – 1; Owl – 2; Owl – 3; Owl – 4; Owl – 5; Owl – 6; Owl – 7; Owl-8; Owl-9

Pupfish -1; Pupfish –2; Pupfish – 3; Pupfish – 4; Pupfish – 5; Pupfish –6;

Razorback Suckers – 1

Agriculture – 1; Agriculture – 2

Other Species – 1

Other Species – 2

The monitoring and adaptive management requirements described in Chapter 4 of the Draft HCP.

2002 Biological Opinion

The 15-Year Minimization Plan described on page 17-18 of the December 18, 2002 Biological Opinion issued by the U.S. Fish and Wildlife Service

Pupfish Conservation Measure 2

Willow Flycatcher Conservation Measures 1, 2, 3, and 4

Brown Pelican Conservation Measure 2

Exhibit D

Use of Party Funds

Expenditure	*Millions (present value as of 2003)*
Environmental Mitigation Requirements	
Salinity Control of Salton Sea	$ 50.0
Other Environmental Mitigation Requirements	$ 83.0
Total Environmental Mitigation Requirements	$133.0

Exhibit E

Party Commitments to Fund Environmental Mitigation Costs

Party	***Amount (present value as of 2003)***
Imperial Irrigation District	$44,061,350
Coachella Valley Water District	$36,717,791
San Diego County Water Authority	$52,220,859
TOTAL	$133,000,000

EXHIBIT C

EXHIBIT C
(Including Exhibits C-1, C-2 and C-3
PAYMENT SCHEDULES

EXHIBIT C-1

CVWD JPA Payments

	Year		27.61%
0	2003	$	1,645,504
1	2004	$	726,170
2	2005	$	773,682
3	2006	$	924,507
4	2007	$	1,058,375
5	2008	$	1,546,371
6	2009	$	5,724,756
7	2010	$	1,947,996
8	2011	$	2,169,002
9	2012	$	2,458,299
10	2013	$	3,688,032
11	2014	$	3,720,930
12	2015	$	4,272,431
13	2016	$	5,803,865
14	2017	$	7,182,291
15	2018	$	11,875,345
16	2019	$	745,350
17	2020	$	738,869
18	2021	$	2,697,555
19	2022	$	2,706,745
20	2023	$	6,953,711
21	2024	$	2,748,523
22	2025	$	1,446,565
23	2026	$	-
24	2027	$	-
25	2028	$	-
26	2029	$	-
27	2030	$	-
28	2031	$	-
29	2032	$	-
30	2033	$	-
31	2034	$	-
32	2035	$	-
33	2036	$	-
34	2037	$	-
35	2038	$	-
36	2039	$	-
37	2040	$	-
38	2041	$	-
39	2042	$	-
40	2043	$	-
41	2044	$	-
42	2045	$	-
43	2046	$	-
44	2047	$	-
45	2048	$	-
Nominal:		$	73,554,872
6.0%	*PV:*	*$*	*36,717,791*

EXHIBIT C-2
IID JPA Payments

Year	
2003	$ 131,395
2004	$ 270,674
2005	$ 418,191
2006	$ 574,316
2007	$ 739,432
2008	$ 761,615
2009	$ 941,356
2010	$ 1,131,196
2011	$ 1,331,579
2012	$ 1,542,967
2013	$ 1,765,841
2014	$ 1,818,816
2015	$ 1,873,380
2016	$ 1,929,582
2017	$ 1,987,469
2018	$ 2,661,221
2019	$ 3,373,610
2020	$ 4,126,346
2021	$ 4,473,828
2022	$ 4,608,043
2023	$ 4,746,284
2024	$ 4,888,673
2025	$ 5,035,333
2026	$ 5,186,393
2027	$ 5,341,985
2028	$ 5,502,244
2029	$ 5,667,311
2030	$ 5,837,331
2031	$ 6,012,451
2032	$ 6,192,824
2033	$ 6,378,609
2034	$ 6,569,967
2035	$ 6,767,066
2036	$ 6,970,078
2037	$ 7,179,181
2038	$ 7,394,556
2039	$ 7,616,393
2040	$ 7,844,884
2041	$ 8,080,231
2042	$ 8,322,638
2043	$ 8,572,317
2044	$ 8,829,487
2045	$ 9,094,371
2046	$ 9,367,202
2047	$ 9,648,218
Cumulative	$209,506,885
Present Value	$ 44,061,350

EXHIBIT C-3

SDCWA JPA Payments

	Year		39.26%
0	2003	$	2,340,273
1	2004	$	1,032,775
2	2005	$	1,100,347
3	2006	$	1,314,855
4	2007	$	1,505,244
5	2008	$	2,199,283
6	2009	$	8,141,875
7	2010	$	2,770,483
8	2011	$	3,084,803
9	2012	$	3,496,247
10	2013	$	5,245,201
11	2014	$	5,291,989
12	2015	$	6,076,346
13	2016	$	8,254,386
14	2017	$	10,214,814
15	2018	$	16,889,380
16	2019	$	1,060,053
17	2020	$	1,050,836
18	2021	$	3,836,522
19	2022	$	3,849,593
20	2023	$	9,889,722
21	2024	$	3,909,010
22	2025	$	2,057,337
23	2026	$	-
24	2027	$	-
25	2028	$	-
26	2029	$	-
27	2030	$	-
28	2031	$	-
29	2032	$	-
30	2033	$	-
31	2034	$	-
32	2035	$	-
33	2036	$	-
34	2037	$	-
35	2038	$	-
36	2039	$	-
37	2040	$	-
38	2041	$	-
39	2042	$	-
40	2043	$	-
41	2044	$	-
42	2045	$	-
43	2046	$	-
44	2047	$	-
45	2048	$	-
	Nominal:	$	104,611,375
6.0%	*PV:*	$	52,220,859

EXHIBIT D

EXHIBIT D

SCHEDULE FOR PAYMENT TO IID FOR MITIGATION WATER

Year	Mitigation Water	*Mitigation Payments*
2003	5,000	$454,335
2004	10,000	$933,658
2005	15,000	$1,439,001
2006	20,000	$1,971,431
2007	25,000	$2,532,056
2008	25,000	$2,601,688
2009	30,000	$3,207,881
2010	35,000	$3,845,447
2011	40,000	$4,515,654
2012	45,000	$5,219,814
2013	70,000	$8,343,002
2014	90,000	$11,021,702
2015	110,000	$13,841,421
2016	130,000	$16,807,889
2017	150,000	$19,927,045

- Present Value of Payments: $50 million
- Interest rate: 6% per Exhibit A of Environmental Cost Sharing Agreement

EXHIBIT E

EXHIBIT E

IID PAYMENTS TO SALTON SEA RESTORATION FUND

Year	
2003	$29,638
2004	$61,054
2005	$94,329
2006	$129,545
2007	$166,789
2008	$171,793
2009	$212,336
2010	$255,157
2011	$300,356
2012	$348,038
2013	$398,310
2014	$410,259
2015	$422,567
2016	$435,244
2017	$448,301
2018	$600,275
2019	$760,965
2020	$930,755
2021	$1,009,134
2022	$1,039,408
2023	$1,070,590
2024	$1,102,708
2025	$1,135,789
2026	$1,169,863
2027	$1,204,959
2028	$1,241,108
2029	$1,278,341
2030	$1,316,691
2031	$1,356,192
2032	$1,396,878
2033	$1,438,784
2034	$1,481,947
2035	$1,526,406
2036	$1,572,198
2037	$1,619,364
2038	$1,667,945
2039	$1,717,983
2040	$1,769,523
2041	$1,822,608
2042	$1,877,287
2043	$1,933,605
2044	$1,991,613
2045	$2,051,362
2046	$2,112,903
2047	$2,176,290
Cumulative Value	$47,257,190
Present Value	$9,938,650