



State of California

LITTLE HOOVER COMMISSION

June 24, 2016

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Dear Governor and Members of the Legislature:

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“The future of the Salton Sea, without significant intervention ...will be an environmental travesty. I say that with 33 years in the air pollution business...I don't use that term lightly.” So said the former executive officer of the South Coast Air Quality Management District to the Commission in its public hearing process preceding its September 2015 report, *Averting Disaster: Action Now for the Salton Sea*. In that report, the Commission identified what may one day be among the worst disasters ever witnessed in the State of California.

The problem really is quite simple: the Salton Sea is shrinking. And the problem is about to get much worse. In 18 months, the water sustaining the sea will begin to significantly diminish as a 15-year agreement to supply mitigation water to the sea comes to an end. Time is out and the state must act now to avert this disaster.

Without immediate action, California faces a major health crisis. As the sea recedes, its lakebed – known as playa – will become exposed, increasing the risk of windblown toxic dust plumes, further scouring a region in California that already is home to some of the worst air quality and highest asthma rates.

Some 650,000 Californians live in harm's way of the shrinking sea, many of them children and seniors. Children who live south of the Salton Sea in Imperial County already have the highest rates of emergency department visits and hospital admissions in California due to asthma, experts told the Commission. Nearly half of all nearby Coachella Valley residents are seniors, another vulnerable group. Health and air quality experts warn if the state takes no action, the region's already-poor air quality will significantly worsen.

The shrinking sea also poses a serious environmental crisis. As the sea becomes shallower and saltier, remaining fish will die off, decimating the habitat of millions of migratory birds on the Pacific Flyway.

The collapse of the lake also would have a devastating effect on the region's economy. Over \$2 billion in crops and livestock are at risk in Imperial County alone, along with the livelihoods of those who grow and harvest these crops. Tourism in the Coachella Valley also will be negatively affected. It is hard to imagine visitors enjoying outdoor music festivals or other recreational activities that draw crowds to the desert with toxic dust or the smell of hydrogen sulfide in the air.

The Pacific Institute has pegged the total health and economic costs of not addressing the problem at \$70 billion.

Unlike a wildfire burning out of control or an oil spill blackening beaches, the Salton Sea disaster is slowly unfolding, and has been all but ignored until recently. When other disasters destroy California lives and livelihoods, Governors declare a state of emergency. The looming Salton Sea disaster warrants the same level of urgency.

The devastating effects will not happen overnight. But they will begin to significantly accelerate in 2018, when changes in water delivery contracts from the 2003 Quantification Settlement Agreement (QSA) diminish water inflows. Intended to reduce California's demand on the Colorado River, the QSA provides for large-scale water transfers from the Imperial Irrigation District to other Southern California regions. While increasing water security for urban Southern Californians, the agreement results in less water flowing into the lake. To give state and local partners time to develop a viable solution for the environmental problems stemming from reduced inflows, the QSA required Colorado River water to be delivered to the lake. Those water transfers end in December 2017.

Recent Progress

After more than a decade mired in a seemingly endless study process, hamstrung by stakeholders who could not agree on what they wanted for the lake, it appears that momentum and consensus are finally building. For the first time since 2007 when the state put out a dead-on-arrival restoration plan with a \$9 billion price tag – which did nothing but further distract from finding real solutions – former foes are now aligning and agreeing on the concept of “a smaller, but sustainable Salton Sea.”

In March 2015, the State Water Resources Control Board held a workshop on the Salton Sea in response to a petition from the Imperial Irrigation District. Some viewed the petition as a potential threat to the continued water deliveries to urban Southern Californians if the state did not begin to hold up its part of the bargain in the 2003 agreement and take a more assertive and visible role in mitigating the looming Salton Sea disaster. The State Water Board has since held two additional workshops on the Salton Sea in January and April of 2016. It has committed to continued involvement and requested and received a dedicated position in the Governor's 2016-17 budget.

In May 2015, the Governor's Office convened a Salton Sea Task Force to meet with stakeholders and develop recommendations for strategic management of the lake. In September 2015, Governor Brown

appointed an assistant secretary for Salton Sea policy to lead the work of the task force, implement shovel-ready projects and develop a plan for longer-term projects. The Governor also in 2015 made another key appointment of a former staffer who had managed Senator Barbara Boxer's Salton Sea portfolio to assistant secretary for federal water policy in the California Natural Resources Agency.

Equally important, the Governor has signaled a commitment to make a down payment on what is estimated to eventually be a multi-billion-dollar solution by allocating \$80 million from Proposition 1, a \$475 million water bond enacted by voters in 2014, to get stalled projects moving.

With the state finally taking action, the federal government, which owns a significant portion of the land under the sea, also has begun taking critical steps, creating a key position at the U.S. Bureau of Reclamation and allocating \$3 million to construct a 31-acre wetland near the Alamo River.

Additionally, Congress is considering legislation that would allow the federal government to partner with local government, tribal nations and the Salton Sea Authority to implement projects to mitigate the environmental quality issues resulting from the shrinking sea. The Imperial County Air Pollution Control District successfully set up a multi-agency meeting in Washington, D.C., that included representatives from the U.S. Environmental Protection Agency and the Department of the Interior. It was agreed that "closer cooperation by the federal agencies with state, local and tribal partners would be instrumental in assisting efforts both in the near term and long term."

In its September 2015 report, the Commission recommended that the new assistant secretary for Salton Sea policy work with stakeholders to develop funding opportunities and find ways to cut red tape to expedite projects. The Commission recommended immediately implementing shovel-ready projects and developing short-, medium- and long-term projects for the lake. Given the state's movement on the Salton Sea as the Commission was deliberating on its recommendations – and with the promise of more activity to come in the near future – the Commission committed to revisiting the Salton Sea in April 2016 to hold the Natural Resources Agency accountable to its pledge of action.

2016 Oversight Hearing

As promised, on April 25, 2016, the Commission convened a hearing to get an update on progress implementing short-term solutions at the Salton Sea. At this hearing, the assistant secretary for Salton Sea policy provided an overview of the state's short-term and "shovel-ready" projects and a timeline for completion. He also described seven committees that have been formed to advise the state and to include local stakeholders' perspectives as the state moves forward. Per a plan provided to the Legislature on April 8, 2016, the state is navigating wisely as it moves forward on projects that will not preclude the various long-term solutions currently being discussed. The proposed projects also provide a double win by reducing exposed playa to mitigate air quality concerns and providing habitat for migratory birds. The Commission commends the state's efforts but finds the state still lacks a sense of urgency.

Timelines to finish two shovel-ready projects – Red Hill Bay and the Species Conservation Habitat – have been extended to 2017 through 2019. The Salton Sea Task Force has set a short-term goal of covering 9,000 acres to 12,000 acres of exposed playa by 2020, yet the state plan indicates fewer than 1,150 acres will be covered by 2020. According to testimony provided to the Commission by the Imperial Irrigation District, an additional 10,000 acres of playa will become exposed between 2018, when water flows to the Salton Sea are curtailed, and the 2020 target.

Key to all of the short-term projects is the “backbone” water delivery project designed by the Imperial Irrigation District, which will provide the infrastructure for water flow for the other short-term projects. The state must do whatever it takes to speed up any remaining approvals to expedite these short-term projects.

Just as he did in 2014 in response to the multi-year drought and again in 2015 in response to the resultant massive die-off of trees in California’s forests, Governor Brown could declare a state of emergency at the Salton Sea “to protect the health and safety and preserve the lives and property of the people of the state.”

During a state of emergency, the Governor may suspend all statutes, rules and regulations that would hinder or delay progress in responding to a disaster. In one of the more memorable declarations of a state of emergency, Governor Pete Wilson used this authority after the 1994 Northridge earthquake crumpled major freeway arteries in Southern California. Caltrans was given the authority to suspend procedures enabling the department to enter into contracts for highway construction projects in days instead of months. Highway reconstruction that would otherwise have taken two years or more was completed in less than three months.

Short of declaring an emergency, the Governor’s Office should take a play from its own playbook and ensure that the assistant secretary and the Salton Sea Task Force replicate the speed and authority once given to the Governor’s senior energy advisor for renewable energy who led the Renewable Energy Action Team. This senior official was given the authority to shepherd dozens of projects through federal, state and local bureaucratic hurdles to get the state on track to achieve its renewable energy goals, mainly by bringing key players into the room. As told to the Commission, that model was simple: “Get everyone together. Cut through the red tape to get it done.”

This may mean to continue expediting, streamlining and prioritizing environmental reviews for the Salton Sea projects. Policymakers could consider legislation similar to SB 743 (Steinberg) enacted in 2013 for the Sacramento Kings arena construction, which did not bypass the California Environmental Quality Act (CEQA), but did set a one-year timeline for decisions on any lawsuits, enabling progress while cases were swiftly resolved. Additionally, the Governor, through the Secretary of the Natural Resources Agency, could give the authority to expedite contracts for the short-term projects and ensure that the engineering staff within the Department of Water Resources is meeting a standard of construction that is appropriate for habitat protection.

Like most challenges in state government, preventing the worst natural disaster in California's history is ultimately the responsibility of the Governor. The worst of the toxic dust storms looms menacingly on the horizon for the next Governor. However, the failure to act now, swiftly and decisively, and the resulting devastating effect on the health and economy in Southern California, not to mention the fate of more than 400 species of migratory birds, will lie solely on the hands of the current and previous Governors.

Recommendations

Based on its prior report and the information provided at its April 2016 hearing, the Commission makes the following recommendations:

Make the Salton Sea a Top Priority. Make implementation of Salton Sea projects as high a priority as high speed rail, the twin tunnels, reduced carbon emissions and increased renewable energy. Enact legislation to ensure any lawsuits filed in connection with the short-term projects are resolved in a year or less. Streamline and expedite contracting and ensure engineering staff are given clear guidelines to ensure construction requirements are aligned with habitat restoration. With 650,000 Californians – including many low-income minorities – in harm's way of the environmental impact from non-action, the highest priority designator is of paramount importance. Going forward, if additional barriers prevent swift progress, the Governor should consider declaring a state of emergency to protect the health of these vulnerable Californians.

Ensure Adequate Resources to Get the Job Done. The assistant secretary is putting forth a Herculean effort to get Salton Sea projects moving. Many at the Commission's hearing applauded the assistant secretary's efforts, but some suggested additional resources in the form of a trained project manager and a meeting planner and facilitator could significantly bolster the effectiveness of the assistant secretary's work. The Commission agrees with this assessment and recommends the California Natural Resources Agency either repurpose existing positions or ask policymakers to allocate additional resources to hire or contract for these services. This would improve the likelihood that the seven committees will have timely and productive meetings and ensure outreach to the people in the communities surrounding the sea is as effective as possible. This community of people – beyond the usual players of elected officials, business and environmental groups – must be informed and engaged in the current projects and understand the viability of future additional projects and the impact of a smaller lake. The state must communicate the impact of these projects and the lack of action to the community in a variety of ways, beyond public hearings and meetings.

Develop and Publish a Gantt Chart for Project Implementation. The assistant secretary noted that both the Department of Water Resources and the Department of Fish and Wildlife each have people dedicated to working on Salton Sea project development and implementation. When asked whether this staff should report to the assistant secretary to ensure deadlines are met, the assistant secretary stated that the current reporting structure did not pose a problem. There are roles for local, federal and

tribal partners, also. To ensure team members are identified and held accountable for meeting deadlines, the assistant secretary, with input from other government entities with a role in Salton Sea management, should develop a Gantt chart to guide the interrelated activities including permitting, contracting and construction activities that will be required along with timelines for these activities.

Assess Salton Sea Management Costs and Develop a Funding Strategy. The \$80 million allocation in the 2016-17 budget signals a significant step forward. It was suggested at the Commission's hearing that total costs for projects and ongoing operations will require billions of dollars in resources. The state currently is working on a plan for long-term Salton Sea strategic management to be available at the end of 2016. This long-term plan should not only identify funding required but also include a realistic blueprint for options for long-term sustainable funding, including revenue from potential renewable energy sources and leveraging local and federal resources.

In the Commission's 2015 report, it committed not only to holding a follow-up hearing in April 2016, but also said it would request a briefing by state officials in August 2016 on the next phase of projects as well as the state's medium- and long-term strategies for the Salton Sea. The assistant secretary testified that a report on medium- and long-term strategies would be available by the end of the year. As such, the Commission will postpone a future briefing until early 2017.

Prior to issuing its 2015 report, the Commission spent a day touring the Salton Sea and held a hearing in Riverside County to hear local perspectives. The visit to the sea was eye-opening and helped the Commission better understand that the time to study is over and the time to act is now. To avert a massive environmental disaster, the Commission urges policymakers to make the Salton Sea a top priority. The Commission respectfully submits this letter, stands ready to assist and will continue to monitor progress in implementation of Salton Sea projects.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jack Flanigan".

Jack Flanigan
Vice Chair