

## The Way Forward at the Salton Sea:

### Follow Precedent at Mono Lake (SWRCB Decision 1631)

- The Imperial/Coachella Valley is the northern arm of the Colorado River delta.
- The Salton Sea has been a fresh water lake and/or estuary of the Colorado for five million years.
- During the period between 1840 and 1907 the Colorado flowed north into the Salton Sea in 1840, 1842, 1848, 1849, 1850 1852, 1859, 1867, 1891, 1895, 1905—1907.
- The California State Lands Commission writes: “...a river ecosystem extends laterally over its entire flood plain and longitudinally from headwaters to the sea, lake or sink. The dynamism of rivers includes seasonal high and low flows, changes in channel and flood plain forms, and drought and flood events.”
- An additional requirement for public trust consideration is navigability at Statehood. The Colorado was serviced by steamboats from 1848 to 1908. Invoking the legal doctrine of public trust is appropriate here.
- The State has an affirmative duty to take the public trust into account in the planning and allocation of resources at the Salton Sea, and to protect public trust uses whenever feasible.
- California Environmental Quality Act variables are degrading at the Sea—aesthetics; destruction of farmland; air quality standards; sensitive and endangered species; riparian habitat; federally protected wetlands; native resident or migratory fish or wildlife and/or wildlife corridors; soil erosion; releases of hazardous materials into the air; degraded water quality; elimination of recreational activities. The Federal Endangered Species Act is ignored. The Migratory Bird Treaties are in jeopardy. The Clean Air Act is being violated.
- The way forward is to use the 1994 precedent at Mono Lake. There a “physical solution” was required by the Court. The SWRCB determined what flows were needed to avoid California Environmental Quality Act adverse environmental impacts. It ordered the beneficiaries of the water to limit withdrawals until such time as damage to the lake was mitigated.
- The State is violating Revised Water Order WRO 2002-0013 which promised to maintain Sea and salinity levels until 2017. Lake level is down. Salinity is way up.
- The State must: 1) limit water transfers until it catches up with restoration; 2) target a Sea level that is sustainable and constant, and; 3) base water shipments on maintenance of public trust values.

