

## COACHELLA VALLEY WATER DISTRICT (CVWD)

CVWD is a public agency of the State of California, organized and operating under the County Water District Law, California Water Code section 30000, *et seq.* CVWD was incorporated in 1918 as the Coachella Valley County Water District but changed its name to Coachella Valley Water District in 1979. It is governed by a Board of five publically elected representatives.

The territory of CVWD embraces 650,000 acres of land in Riverside, Imperial and San Diego Counties in the State of California. Within various areas of its territory, CVWD provides irrigation services with water imported from the Colorado River, agricultural drainage services, domestic water service drawn from groundwater supplies, sanitary sewer service, waste water reclamation, storm water protection and conducts groundwater replenishment operations.

Beneath the floor of the Coachella Valley is a large groundwater aquifer, estimated by the United States Geological Survey to contain approximately 40 million acre-feet (MAF) of water. Because of its size, for management purposes, it is divided into two regions, the West and the East Basins.

The development of irrigated agriculture in the eastern part of the valley caused overdraft conditions in the East Basin by the early 1920's. Overdraft is a condition where the annual extraction exceeds the annual long term recharge of the basin. Protracted overdraft can lead to undesirable conditions such as land subsidence, degradation of groundwater quality, and the lowering of the groundwater table to levels from which is not economically feasible to pump.

To reduce the overdraft of its groundwater basin CVWD has negotiated imported water agreements. CVWD is one of only two agencies within the State of California with rights to water deliveries from both the Colorado River and the State Water Project. Metropolitan Water District of Southern California in Los Angeles, the largest water contractor in the United States, is the other agency.

## CVWD'S COLORADO RIVER WATER RIGHTS

On August 18, 1931, the Palo Verde Irrigation District (PVID), Imperial Irrigation District (IID), CVWD, The Metropolitan Water District of Southern California (MWD), City of Los Angeles, City of San Diego, and County of San Diego entered into the "Seven Party Agreement" regarding the apportionment and priorities for use of Colorado River water among the California parties. A key point to note is that the agricultural priorities are in the aggregate limited to 3.85 MAF per year, but were not individually quantified. The Secretary of the Interior accepted the recommendations and amended general regulations previously issued to include the priority system of the Seven Party Agreement in water delivery contracts with California water users. The water rights allocated to CVWD fall within the allocation made for priorities 3(a) and 6(a) of the Seven Party Agreement, which are shared with IID.

On February 14, 1934, IID and CVWD entered into an Agreement of Compromise under which IID was given "prior right for irrigation and potable purposes only, and exclusively for use in the Imperial Service Area" as that area was specifically defined, and CVWD was given "the next right, for irrigation and potable purposes only, and exclusively for use in the Coachella Service Area" as that term was defined, but no specific quantification of those rights was made. CVWD's rights would later be quantified under the Quantification Settlement Agreement (QSA) in 2003.

On October 15, 1934, the United States and CVWD entered into a contract under the Boulder Canyon Project Act ("1934 CVWD Contract"), under which the United States built the Imperial Dam, the All-American Canal and the Coachella Canal, and agreed to deliver water to CVWD in accordance with the priorities of the Seven Party Agreement and the 1934 Compromise Agreement.

Following the introduction of Colorado River water for irrigation in 1949, the overdraft ended and water levels in the East Basin steadily increased during the 1950s and early 1960s. Imported water had two effects that led to the recovery of the East Basin groundwater levels. First, as irrigated farms switched from groundwater pumping to canal water, there was a reduction in groundwater production. Second, some of the imported water applied to fields escaped as deep percolation to augment the natural recharge.

### CVWD'S STATE WATER PROJECT ALLOCATION

The Western Coachella Valley region began experiencing overdraft conditions due to increased pumping for domestic and municipal uses as the area developed. To address this increased West Basin demand, an additional supply of water needed to be obtained from outside the valley to augment the natural supply in the West Basin. The solution was found in the California State Water Project, which stores water developed in Northern California and transports it south through the California Aqueduct.

On March 29, 1963, CVWD entered into a Water Supply Contract with the State of California Department of Water Resources for delivery of water from the State Water Project. As subsequently amended, CVWD's contract right currently is for 138,350 acre-feet of Table A entitlement. Table A entitlement is not a promise of a firm annual delivery, but is the amount used to calculate the proportion of the State Water Project yield available each year that a contractor may order as a matter of right, up to the full listed Table A amount.

The State of California has never extended the facilities of the State Water Project to provide delivery to the Coachella Valley. Instead, CVWD and a neighboring State Water Project Contractor, the Desert Water Agency, which currently has a contract right to 55,750 acre-feet of Table A entitlement, had to find an alternative means to benefit from their State Water Project contracts.

In 1972, CVWD and DWA entered into an exchange contract with MWD. Under the Exchange Agreement, State Water Project water to which CVWD and DWA are entitled each year is delivered at their expense to MWD, and MWD at its expense delivers from the Colorado River Aqueduct at the Whitewater River and Mission Creek turnouts an equal volume of Colorado River water. The water released at the turnouts is then carried and diverted into recharge ponds. At these recharge ponds, the water then sinks into the groundwater basin where it may be subsequently produced from wells in the West Basin or the Mission Creek Basin. DWA and CVWD levy a groundwater replenishment assessment on each acre-foot of groundwater pumped within the zones of benefit to offset a portion of the costs of purchasing State Water Project Water and the operation and maintenance of the recharge ponds.

In 1996 CVWD and DWA began purchasing additional Pool A, Pool B, and interruptible water from the State Water Project resulting in average annual purchases of 142,000 acre-feet in the period 1996 through 1999. However, these supplies are not expected to be available in the future and cannot be relied upon as a long term source of supply for the West Basin. State Water Project supplies to Southern California are expected to be significantly curtailed for several years due to endangered species issues that limit when and how much water the State Water Project can pump.

#### BASIN IN OVERDRAFT AND LAND SUBSIDENCE

Even with these imported water agreements, the East and West Basins are still in an overdraft condition.

Although the importation of Colorado River water allowed the East Basin to recover from its prior overdraft, subsequent development in the Eastern Coachella Valley has led to increased pumping demand which has once again caused an overdraft in the East Basin groundwater basin. Well levels in the Eastern Coachella Valley have been declining since the mid 1980's. Some wells in the Oasis area have experienced declines of more than 80 feet. Prior to completion of the recharge facilities in the Eastern Coachella Valley estimated overdraft in the East Basin was 100,000 acre-feet/year.

To address the overdraft condition in the region CVWD in 2002 adopted the Coachella Valley Water Management Plan. Among the measures adopted are reducing groundwater demands by shifting groundwater pumpers to canal water and conducting groundwater recharge operations in the Eastern Coachella Valley with Colorado River water.

Another important part of the Coachella Valley Water Management Plan was the construction of the Mid-Valley Pipeline. The first phase of this project was completed in 2008 at a cost of \$40 million. The purpose of the project is to deliver Colorado River Water to as many as 50 golf courses in the middle part of the Coachella Valley. The project is expected to ultimately deliver approximately 40,000 acre-feet per year of in-lieu recharge to this part of the Coachella Valley, with an ultimate investment of an additional \$35 million.

During the overdraft that existed prior to the importation of Colorado River water, portions of the Eastern Coachella Valley in the La Quinta area experienced land subsidence, one of the undesirable effects of overdraft. If groundwater levels are lowered too much, the land surface starts to sink or subside as dewatered clay layers compact under the weight of overlying sediments. Land subsidence is permanent no matter how much water is later recharged into the groundwater basin. Subsidence of this nature tends not to be uniform, so with uneven settling of the land, there is risk of damage to works of improvement, particularly linear works such as canals, sewers, water distribution systems, drains, flood control facilities and roads.

The additional Colorado River water supplies received by CVWD under the QSA and related agreements are absolutely essential to implementing the Coachella Valley Water Management Plan and eliminating overdraft from both basins.

### QUANTIFICATION SETTLEMENT AGREEMENT

Enabled by the under-use of water by other states with rights to the Colorado River, California routinely used more than 4.4 million acre-feet (MAF), up to 5.2 MAF or more. In 1996, the US Department of the Interior notified California that it must learn to live within the 4.4 MAF amount.

Without spending too much time on the details of almost a decade of negotiation, in order to comply with this requirement, parties in California signed the historic Quantification Settlement Agreement (QSA) which allowed for the transfer of conserved water from the Imperial Irrigation District to other water agencies. To facilitate the QSA, in 2003 the California Legislature passed three bills--SB 277, SB 317 and SB 654 -- which assured that environmental impacts of the IID water transfer project would be fully mitigated and funded, and set up a separate process for Salton Sea restoration.

In SB 654, the Legislature found “that in order to resolve conflicts that have prevented 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 . . . .” (Stats. 2003, ch. 613, § 3.)

The mechanism chosen was to authorize the Department of Fish and Game to enter into a joint powers agreement with CVWD, IID and SDCWA “for the purpose of providing for the payment of costs for environmental mitigation requirements.” (Stats. 2003, ch. 613, § 3, subd. (a).) However, the water agencies’ liability for those costs was capped at \$133 million (2003 dollars). (Stats. 2003, ch. 613, § 3, subd. (b)(1).) The State is responsible for any additional mitigation costs. The QSA-JPA, formed under this bill, ensures that required environmental mitigation for the QSA is fully-funded and will be carried out. The QSA-JPA Agreement has been upheld by the Court of Appeal. (*Quantification Settlement Agreement Cases* (2011) 201 Cal.App.3d 758, 796-820.)

The QSA-JPA Agreement also provides for IID, CVWD and SDCWA to pay 30 million dollars to the Salton Sea Restoration Fund. (Stats. 2003, ch. 613, § 3, subd. (b)(2).) SB 654 further provides that except for required mitigation for the transfers and this contribution, “no further funding obligations or in-kind contributions of any kind for restoration of the Salton Sea shall be required of Imperial Irrigation District, the Coachella Valley Water District, the Metropolitan Water District of Southern California, and the San Diego County Water Authority. Any future state actions to restore the Salton Sea will be the sole responsibility of the State of California.” (Stats. 2003, ch. 613, § 3, subd. (c).) SB 654 thus insulates the water agencies from any further responsibility for funding a Salton Sea Restoration, freeing the QSA Transfers from the burden of a restoration.

SB 277 (Stats. 2003, ch. 611) enacted the Salton Sea Restoration Act. (Fish and G. Code §§ 2930 et seq.) In the Act, the Legislature declares “[i]t is the intent of the Legislature that the State of California undertake the restoration of the Salton Sea ecosystem and the permanent protection of the wildlife dependent on that ecosystem.” (Fish and G. Code § 2931, subd. (a).) The Act also establishes the Salton Sea Restoration Fund. (Fish and G. Code § 2932.) But while declaring the intention to undertake a restoration, the Act did not provide a mechanism to actually implement a restoration, leaving those steps to future legislatures to decide.

In SB 317 (Stats. 2003, ch. 612), the Legislature amended Fish and Game Code section 2081.7, to renew the expired authorization for the incidental take of fully protected species in connection with the implementation of the QSA transfers and acquisitions. The amendment made by SB 317 also required the Resources Agency to “undertake a restoration study to determine a preferred alternative for the restoration of the Salton Sea ecosystem and the protection of wildlife dependent on that ecosystem” (Fish & G. Code § 2081.7, subd. (e)(1)) and required the restoration study “including a proposed funding plan to implement the preferred alternative” to be “submitted to the Legislature on or before December 31, 2006.” (Fish & G. Code § 2081.7, subd. (e)(2).)

The combined effect of the three bills was to allow the QSA to go forward free of the burdens of financing or carrying out a Salton Sea Restoration. CVWD’s principal objection to IID’s current petition to the State Water Resources Control Board is that it seeks to reverse this policy decision by the Legislature, and in the process jeopardize CWVD’s supplies of Colorado River water.

### CONCERNING THE SALTON SEA

CVWD provided this statement of its current policy objectives for the Salton Sea at the 2014 Salton Sea Science meeting hosted by University of California, Irvine, United States Geological Survey and Imperial Irrigation District at Imperial Valley College:

While members of the CVWD Board of Directors and District employees may ardently desire the restoration of the Salton Sea, such restoration efforts are not directly within the mission of the District. While the District continues to engage on restoration efforts, this is

done to protect the Coachella Valley's continued legal and environmentally conscious use of the Sea as a repository for agricultural runoff, storm water runoff, and treated wastewater disposal. As a QSA party, CVWD fully supports mitigation of the impacts of the QSA, understanding that the State of California is responsible for mitigating impacts beyond the reach of the contributions of the QSA parties required in the Environmental approval of the QSA. CVWD is a member Agency of the Salton Sea Authority and supports its funding, habitat, and restoration activities.

Under this policy, CVWD is actively involved in both mitigation of QSA-related impacts on the Salton Sea as well as Salton Sea restoration policy and planning through its membership in various agencies and workgroups.

CVWD is a member of the Quantification Settlement Agreement Joint Powers Authority ("QSA-JPA"), which is responsible for funding the measures adopted to mitigate the environmental impacts of the QSA on the Salton Sea. General Manager Jim Barrett serves as one of the four QSA-JPA commissioners, and Assistant General Manager Robert Cheng serves as CVWD's alternate. In the 2003 QSA-JPA Agreement, CVWD agreed to pay \$36.7 million (2003 dollars) to the QSA-JPA in annual installments beginning in 2003 and ending in 2025. CVWD has twice agreed to accelerate payments--once in 2007, with a \$4.4 million advance payment, and again in 2015, with a \$5 million advance payment. Also under the QSA-JPA Agreement, CVWD contributed \$8,282,209 to the Salton Sea Restoration Fund. CVWD is currently considering the lump sum payment of all remaining mitigation funds in the amount of \$30.7 million.

CVWD has been a charter member of the Salton Sea Authority since it was first formed in 1993. The Salton Sea Authority is a joint powers authority formed by the local entities most concerned with the restoration of the Salton Sea: the Counties of Imperial and Riverside, the Imperial Irrigation District, the Torres Martinez Desert Cahuilla Indians and CVWD.

Two CVWD board members are appointed to the SSA board; currently, the delegates are Patrick O'Dowd and Castulo Estrada. Along with the other member agencies, CVWD funds the SSA; for the 2014-2015 fiscal year, CVWD contributed \$150,000.

Additionally, CVWD staff participates in various Salton Sea groups, including:

- The SSA Technical Advisory Committee, which meets monthly to discuss SSA planning and review unsolicited restoration concepts submitted to the Salton Sea Authority;
- As an ex-officio member of the Salton Sea Action Committee, a consortium of private enterprise community members working to support the activities of the Salton Sea Authority and other activities promoting the Salton Sea;
- The Salton Sea Technical Coordinating Team, a group including SSA member agencies and representatives of federal and state agencies and non-governmental organizations. The Technical

Coordinating Team teleconferences monthly to discuss each party's activities in and around the Salton Sea in order to coordinate efforts when possible. New draft documents related to the Salton Sea Authority's Funding and Feasibility Action Plan are vetted here;

- The Salton Sea Infrastructure Financing District Formation Committee which is charged with implementing an Infrastructure Financing District ("IFD") designed to capture incremental increases in property tax in the area for Salton Sea Restoration bonding repayment. Special state legislation authorized this IFD;
- The Salton Sea Authority Member Agency Legislative Working Group, assisting in formulating the SSA's legislative agenda; and,
- The Steering Committee for Imperial Irrigation District's Salton Sea Restoration and Renewable Energy Initiative.

Finally, CVWD is planning a 160 acre wetland habitat construction project on the north end of the Salton Sea, pursuant to CVWD's obligations under the Coachella Valley Multiple Species Habitat Conservation Plan. This project is independent of the SSA and QSA-JPA.

## IN CONCLUSION

The Salton Sea has been in a state of decline since its filling over 100 years ago. With no outlet, evaporation is the only exit for water. This leaves behind salts and minerals that have been concentrating to a point where soon, no fish species will be able to survive. The State of California realized decades ago that a restoration plan was needed for the Salton Sea. In 1965, for example, a State Water Quality Control Board paper predicts that if nothing is done, the Salton Sea will become too salty and die. Ideas have been put forward, none have been funded.

The need for Salton Sea restoration precedes the QSA. If responsibility for the Salton Sea were made a condition of the QSA, the historic agreement would likely not have come to pass.

California understood the need to live within its 4.4 MAF Colorado River supply. In order to facilitate the QSA, the State passed legislation accepting responsibility for mitigating the effects of the QSA beyond the commitments of the water agencies, and stating its intent to restore the Salton Sea. With this understanding, the QSA has gone forward. During this historic drought, reliance upon Colorado River water for both agriculture and urban use in the State of California is vital. It now falls upon the State to fulfill its obligations and stated intentions.