Subcommittee on Water and Power of the U.S. House of Representative Committee on Resources

Hearing on HR 5123 (Hunter)

July 25, 2002

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Introduction

Thank you for the invitation to participate in this important hearing. The Salton Sea Authority is pleased to offer our views on the legislation recently introduced by the Honorable Duncan Hunter, "Colorado River Quantification Settlement Facilitation Act", HR 5123.

I would like to thank Congressman Hunter, and all members of the Salton Sea Congressional Task Force for their continuing support of our efforts, and those of many federal agencies that are engaged in the effort to protect and restore the Salton Sea.

I am the Executive Director of the Salton Sea Authority. The Salton Sea Authority is an agency that was established in 1993 under the State of California's joint powers agency statutes. The Salton Sea Authority was formed to direct and coordinate actions related to improvement of water quality, stabilization of water elevation, and enhancement of recreational and economic potential of the Salton Sea. Notably, the Authority was formed by the four agencies with direct and significant stakes in the region and the health of the Salton Sea: Imperial Irrigation District, Imperial County, Coachella Valley Water District, and Riverside County. State legislation passed last year will allow the Torres Martinez Desert Cahuilla Tribe to be a full member of the Authority in the near future.

I was hired as the Authority's first and only Executive Director in late 1997. Since that time, I have managed and co-managed the Salton Sea Authority's environmental compliance, engineering, design, public outreach, governmental affairs, and scientific efforts.

In 1998, Congress enacted the Salton Sea Reclamation Act of 1998 (Public Law 105-372). The Act directed the Secretary of Interior to complete environmental and engineering studies to: (1) permit the continued use of the Salton Sea as a reservoir for irrigation drainage; (2) reduce and stabilize the overall salinity of the Sea; (3) stabilize the surface elevation of the Sea; (4) reclaim in the long term healthy fish and wildlife resources and their habitat; and (5) enhance the potential for recreational uses and economic development of the Salton Sea. Additionally, Congress has appropriated approximately twenty million dollars for restoration efforts. The State of California has contributed an additional five million dollars.

Over the last 4 years, the Salton Sea Authority, in conjunction with the United States Bureau of Reclamation, has engaged in extensive environmental studies and engineering designs with respect to

potential restoration projects. As discussed more fully below, the conclusions reached in those studies is that the Sea is a rich, vital ecosystem of regional, national and international significance that can be restored and maintained indefinitely at a reasonable cost, if actions are not taken that significantly reduce water inflows to the Sea.

The Salton Sea Authority is not opposed to the quantification settlement agreement, nor necessarily, to the transfer of water from the Imperial Irrigation District ("IID") to the San Diego County Water Authority ("SDCWA") and the Coachella Valley Water District ("CVWD") and/or the Metropolitan Water District of Southern California ("MWD"). The Salton Sea Authority understands the need and generally supports the implementation of the California 4.4 Plan that is designed to reduce California's use of Colorado River Water.

However, the Salton Sea Authority is deeply concerned about the manner in which transfers are implemented, as some transfer options will have a devastating effect on the Salton Sea. Consequently, the Salton Sea Authority cannot support the Colorado River Quantification Settlement Facilitation Act in its current form, for the following reasons:

- The Act facilitates water transfers implemented in a manner (on-farm conservation) that would substantially reduce inflows into the Salton Sea and render maintenance and restoration of the Sea infeasible. The Sea would be lost.

- The $110 million committed by the Legislation to fund mitigation projects would be insufficient to fund even minimally effective habitat conservation programs.

- The Act commits the Secretary of Interior to remediate the severe air quality impacts threatened by a receding Salton Sea, but provides no funding for those remediation efforts that could cost tens, or even hundreds, of millions of dollars.

In addition to the concerns raised by the Salton Sea Authority, the Coachella Valley Association of Governments[1] (CVAG) Energy and Environment Committee also voted to oppose H.R. 5123. In their attached letter, they express concerns about weakening the Endangered Species Act, insufficient funding for environmental mitigation, and shortening time lines for legal challenge. They also acknowledge the importance of furthering the California 4.4 plan, but they believe that the SDCWA/IID water transfer may not be a crucial component of that plan and that the transfer could be separated from the plan. The CVAG letter sums its opposition by stating that:

> "the legislation proposes to facilitate this **four to five billion dollar water *sale*** by sidestepping the environmental process; making the Federal government responsible for environmental impacts, and mandating a price tag for project mitigation which we deem arguably low, and the majority of which is being paid by the Federal tax payer."

Restoration of the Salton Sea

In order to understand the impact of the Facilitation Act on the Salton Sea, it is necessary to understand the basics of the Sea and its hydrology. Thanks in large part to the Salton Sea Restoration Act of 1998; the Authority has been able to undertake significant scientific study of the Sea. What has emerged is a Sea of

much greater diversity and vitality than was initially appreciated[2].

The Salton Sea is California's largest inland lake. It has been described as the crown jewel of Californian avian biodiversity. The Sea offers greater species diversity than the Florida everglades. More than two-thirds of all species of birds (400 species) in the Continental United States have been recorded at the Sea. The Sea supports 45% of the entire U.S. population of the threatened Yuma clapper rail, 80% of the western American white pelicans, and 90% of the continental population of eared grebes. Given the loss of 95% of California's historic wetlands, the Sea has become a critical link in the Pacific flyway.

The birds at the Salton Sea depend on the Sea's fishery, which has been described as one of the world's most productive. It has been estimated that 200 million fish inhabit the Sea.

The Sea is also an important recreational resource. An estimated 2 million people visit the Sea annually. Many consider it to have the best fishing in California. It is also considered one of the most popular bird watching spots on the Continent.

The lynch pin of the Sea's bio-diversity, its fishery, is threatened. The Sea is a terminal inland water body; the salinity of the Sea is slowly rising.

Inflows to the Sea, which are largely dependent on agricultural run-off, have remained essentially constant for 30 years at 1.34 million acre-feet per year. If inflows remain at that level, the Sea will likely continue to support its fishery, and the rich bio-diversity that depend on that fishery, for another 60 years. At that time, the salinity will reach 60 parts per thousand, at which point it is generally assumed that critical fish populations will be unable to reproduce.

The goal of the restoration planning effort has been to restore and maintain the Sea's vital ecosystem indefinitely. The restoration project has shown that methodologies exist to withdraw salt from the Sea at a sufficient rate to maintain a viable fishery if inflows close to historic averages are maintained.

Solar evaporation ponds have been used for millennia to extract salt from water. The Salton Sea Authority, in partnership with the Bureau of Reclamation, has constructed a solar evaporation pond pilot project at the Sea and is testing salt disposal techniques at another pilot project at the Sea. Additionally, we recently initiated a joint project with CalEnergy to use some of their waste heat from their geothermal plants at the Sea to test a desalinization process.

Under continuation of historic average inflows, restoration is clearly possible. It is estimated that a salinity control project, assuming current inflows and using solar ponds, would cost $250 million[3], present value.

The Impact of Water Transfers

The effect of water transfers on the Salton Sea depends largely on the manner in which water is conserved for transfer. The project proposed by IID, and facilitated by this legislation, would rely on "on-farm conservation": reduction or elimination of "tail water" and improvement of delivery systems in Imperial Valley. Virtually all of the water conserved in this manner (300,000 acre-feet per year) would be water that would otherwise flow to the Sea.

The reduction of inflows of 300,000 acre-feet per year would cause the level of the Sea to drop around 15 feet and the Sea to significantly shrink. Salinity in the Sea would rise rapidly, reaching the benchmark of 60 parts per threshold in 2013. Sometime around that point, it is expected that the fishery would collapse.

A restoration project designed to accommodate reductions of inflow of that magnitude would be so large that it would be infeasible to build and would cost well over $2 billion. The $110 million committed by the Facilitation Act falls far short of the additional amount needed for restoration due to reduced inflows. Consequently, under on-farm conservation, restoration of the Sea becomes infeasible.

As an alternative to restoring the Sea, IID initially proposed a Habitat Conservation Plan that relies on the construction of large (5,000 acre) fish ponds (likely the "Habitat Enhancement Projects" envisioned by the Act). It was hoped that the ponds would provide replacement food for the fish-eating birds and mitigate the impacts of the dying Sea.

During hearings before the California State Water Resources Control Board regarding the transfer project, the fish pond project was uniformly criticized by scientists who had reviewed the proposal. The California Department of Fish and Game and United States Fish & Wildlife Service concluded that the plan would not be effective in mitigating impacts to endangered species. IID ultimately withdrew that proposal.

Even if the Habitat Conservation Plan had been effective, the cost would likely have been prohibitive. IID's own estimates of the cost of the habitat conservation project ranged from the low hundred million dollars to the low billion dollars.

It is our understanding that the rejection of the Habitat Conservation Plan by the Fish & Wildlife Service is the motivating factor behind the Facilitation Act. In exchange for a $50 million dollar payment by the Water Districts benefited by the transfer (IID, CVWD, MWD and SDCWA), the Act provides that the requirements of the Endangered Species Act are deemed to be fully satisfied and the Water Districts are absolved of any further liability under federal law for transfer-related projects. Consequently, under the Facilitation Act, transfers could be accomplished without mitigating impacts to endangered species, or other species that rely on the Salton Sea's ecosystem.

The $60 million authorized by the Facilitation Act, even when added to the $50 million required of the Water Districts, is hopelessly inadequate to mount either a minimally effective salinity control project or an alternative habitat conservation plan. Unless significant funding was forthcoming from other sources, the Sea would shrink and die and America would lose one of its biodiversity gems.

Air Quality Impacts

Equally troubling, implementation of the transfers as contemplated by the Facilitation Act pose a serious air quality risk to the residents of the Coachella and Imperial Valleys that abut the Salton Sea. The receding Sea would expose over 70 square miles of bottom sediment. Very fine bottom sediments, once exposed, may become wind-borne dust (PM10), one of the major causes of air pollution.

In an analogous situation, the Owens Lake bottom was exposed by water transfers to Los Angeles in the early part of the 20th Century. The area exposed at Owens Lake was roughly one-third to one-half of the area that may be exposed at the Salton Sea. Nevertheless, dust storms at Owens Lake have caused severe air quality and health problems.

Los Angeles has been forced to implement a dust stabilization program to remediate the air quality problems at Owens Lake. It is anticipated that that program will cost $400 million to implement, and another $10 million annually to maintain.

Imperial and Coachella Valleys already fail to meet federal air quality standards for PM10. Imperial Valley currently has the highest incidence of childhood asthma in the State, a fact attributable to the poor air quality. It is feared that a receding Salton Sea could cause significant degradation of air quality in the area, imperiling residents' health, and necessitating costly dust mitigation measures that would significantly hamper local economies.

To address air quality hazards posed by water transfers, the Facilitation Act requires the Secretary of Interior to "carry out projects under this section [Section 3] that are necessary to prevent threats to health or safety caused by wind erosion of portions of the Salton Sea bed that become exposed as a direct result of the receding of the Salton Sea..." due to water transfer- related conservation measures. No projects are currently proposed for mitigating the potential air quality impacts of a receding Sea, but it is estimated that the cost of remediation could be significant. Notwithstanding the requirement of the Act that the Secretary carry out such projects, the Act does not authorize any federal funding for that effort.

There Is An Alterative

The Final Environmental Impact Report certified by IID on June 28, 2002, proposed an alternative: fallowing. Farmland could be fallowed on a rotating basis to provide water to meet transfer obligations and/or to provide replacement water to the Salton Sea. Such an alternative could keep salinity increases on the same trajectory that they have been on for the past couple of decades. This would provide an opportunity to implement a cost-effective restoration program.

However, the water transfer agreement between IID and SDCWA rejects fallowing as a method of conservation. In policy statements, IID has consistently rejected the fallowing alternative as causing unacceptably large damage to the local economy.

Effect of the Proposed Facilitation Act on the Salton Sea Reclamation Act of 1998

Section 4(a)(1) of the Facilitation Act states that the Salton Sea Reclamation Act of 1998 recognized that: "the Federal Government will bear the responsibility for the rehabilitation of the Salton Sea...".

The Salton Sea Authority would welcome that level of commitment from the Federal Government. Nevertheless, while Congress is the ultimate arbiter of what the Salton Sea Reclamation Act intended, the Authority has never understood the Act to constitute the Federal Government's full assumption of responsibility for rehabilitation of the Sea.

With respect to restoration planning, the Restoration Act does provide that the Secretary of Interior:

> "shall apply assumptions regarding water inflows into the Salton Sea basin that encourage water conservation, account for transfers of water out of the Salton Sea basin, and are based on a maximum likely reduction of inflows into the

Salton Sea which could be 800,000 acre-feet or less per year".

The Secretary was to develop a report with the Salton Sea Authority that evaluated restoration options under reduced inflow conditions. Such a report is still forthcoming. In a recent letter to the Secretary of Interior, even the Sea's greatest legislative supporters acknowledge that the report should evaluate multiple inflow conditions. (See Exhibit #9 in the Authority's testimony before the Subcommittee on June 14, letter to Secretary Norton from Congressional Salton Sea Task Force).

Evaluation of restoration alternatives under various inflow assumptions is an order of magnitude less committal than paying for restoration under those conditions. As noted above, restoration under significant inflow reduction becomes prohibitively expensive.

Salton Sea Authority's Position on the Colorado River Quantification Settlement Facilitation Act

On July 18, 2002, the Salton Sea Authority unanimously voted not to support the Facilitation Act. The Authority found the Facilitation Act to be inconsistent with the Authority's previously adopted position with respect to restoration of the Salton Sea. The Authority's position is stated in its Resolution 02-02 (attached as Exhibit #3 in the Authority's testimony before the Subcommittee on June 14, 2002), which provides, in part:

- "**NOW THEREFORE, BE IT RESOLVED**, by the Board of Directors of the Salton Sea Authority to oppose projects that will significantly lower the level of the Salton Sea".

As discussed above, the proposed Facilitation Act would facilitate transfer projects that rely on conservation techniques that significantly reduce inflows to the Sea. Restoration of the Salton Sea would be rendered infeasible.

- "**BE IT FURTHER RESOLVED** to support efforts by Congressman Mary Bono to ensure that the impacts of water transfers on the Salton Sea and the Imperial and Coachella Valleys are complying with environmental laws."

The proposed Facilitation Act in essence grants the Water Districts a federal waiver from compliance with federal environmental laws with respect to transfer-related projects. Impacts on endangered species would not be mitigated. Impacts on Valley residents from the threat of significantly degraded air quality are not adequately addressed.

- "**BE IT FURTHER RESOLVED** to urge the IID Board of Directors to pursue water transfer solutions which meet the terms of the QSA which properly mitigate impacts on the Salton Sea, and which address economic and social impacts in the Imperial and Coachella Valleys."

The $110 million proposed by the Act for mitigating transfer-related impacts will be inadequate to address the impacts on restoration and to mitigate potential environmental impacts at the Sea. The Bill provides no mechanism for addressing economic and social costs of a dying Salton Sea.

- "**BE IT FURTHER RESOLVED** that any mitigation identified and implemented for the transfer be done in a manner consistent with the goals and objectives for the full restoration of the Salton Sea."

The Act facilitates water transfers that would significantly reduce flows to the Sea and make restoration very expensive, very large and/or very complicated. It would likely make full restoration impractical or impossible.

- "**BE IT FURTHER RESOLVED** to support stringent reviews of any State and/or Federal legislation that relax environmental laws at the detriment of economic or environmental values of the Salton Sea, and Imperial and Coachella Valleys."

The legislation appears to be designed to facilitate water transfers by relaxing environmental laws. Public health and environmental values of the Salton Sea, Imperial and Coachella Valleys, are not protected.

Conclusion

The Salton Sea is a critical environmental resource and important asset to the economies of the Imperial and Coachella Valleys. The Colorado River Quantification Settlement Facilitation Act would enable water transfers in a manner that would make restoration of the Sea extremely costly and, very likely, impractical.

If compliance with environmental laws is waived as contemplated by the Facilitation Act, the water transfers can be implemented in a manner that will have severe public health, economic and environmental consequences to the region surrounding the Salton Sea. Those impacts can and should be avoided by pursuing conservation alternatives that do not reduce inflows to the Sea, do not threaten the rich biodiversity of the Sea's ecosystem, and do not threaten the health of residents of the Imperial and Coachella Valleys.

The Salton Sea Authority has been diligently testing and demonstrating projects and programs to maintain and restore the Salton Sea. With your continued support, the Authority believes that those efforts can be brought to fruition, and Americans can continue to enjoy the outstanding ecological and recreational resources of the Salton Sea.

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[1] An ex-officio member of the Salton Sea Authority.

[2] This work is memorialized in various newsletters published by the Authority and by the University of Redlands in a pamphlet called "Salton Sea, California's Everglades" that was handed out to participants at the Subcommittee's field hearing on June 14. The pamphlet provides full-color details regarding the Salton Sea, its bio-diversity, and restoration that support and augment the brief summary provided in this statement. For copies of the pamphlet, you may contact the University of Redlands at (909) 335-5268.

[3] Cost estimates continue to be refined and could increase some. However, these present value costs not only include the cost of construction, they also include the costs of operations and management over time and the costs of other ancillary programs (wildlife disease program, etc.).