

MOHAVE COUNTY WATER AUTHORITY

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Dear Director Buschatzke, Ms. Kartha and Mr. Cooke:

Mohave County Water Authority ("MCWA") expresses its appreciation for the DCP ICS exhibit open house hosted by the Department of Water Resources and participated in by contractors proposing ICS exhibits as a part of DCP. The open house afforded the opportunity to discuss concerns about exhibits with those propounding them. MCWA was able to resolve many of its concerns regarding various ICS exhibits at the open house.

MCWA acknowledges the importance of ICS in water management, especially in times of declining water supplies, and supports its creation and use consistent with the 07 guidelines, and in general, the Law of the River and sound water management practices. The 07 Guidelines at XI.D.1 state "ICS shall be delivered to the Contractor that created it pursuant to both Articles 11(B)(2) and (II)(B)(6) of the Consolidated Decree and Forbearance Agreements." This requirement that ICS be delivered to the creating Contractor also appears in the Arizona Framework Agreement. As originally discussed in DCP meetings, ICS created under DCP was to return for use in the service area for the originating contractor. That restriction appears not to have carried forward.

The Mohave Valley Irrigation and Drainage District (MVIDD or District) entitlement contract with the US provides the district the right to divert 41,000-acre feet of water annually. The entitlement contract states water can be used for irrigation (agriculture) or domestic (M & I) purposes but is silent as to the allocation for use

between the uses but clearly contemplates both types of uses on all lands within the service area. This lack of allocation between uses in the primary entitlement contract show that the water entitlement contract is for the benefit of all land owners as the water is available for use on all lands within the service area, not just agricultural lands.

The farmers use the water pursuant to sub-contracts which, at one time, expressly required the water provided under the contract be applied for agricultural purposes to lands described therein. Modifications to those contracts were approved as a part of Resolution 2018-04 which makes district water available for use outside the district.

MVIDD Directors have openly expressed their desire to transfer water outside the district and have openly stated their desire to be compensated for "their water" by whatever means possible. They have also stated the district is an irrigation district and as such, the directors are empowered to act in the best interest of the farmers, perhaps obviating any need to take into account the interests of other tax paying land owners or residents (approximately 80% of which is non-agricultural) in the district who are precluded from voting and serving as an elected board member. The proposed ICS exhibit simply represents an effort to monetize the "District's Water" and transfer the water indirectly for the personal financial gain of the individual board members.

The creation of ICS should not be permitted for transfer purposes if any requests for water allotments, and in particular agricultural water allotment, remains unsatisfied within the district proposing its creation. It is unsound, bad water management policy to allow water to be transferred outside of a service area when unsatisfied requests for water exist within that service area. Why should water users in Central Arizona receive the benefit of a water entitlement intended for owners of lands within the district's service area and the district's own land owners needs go unmet? It is, after all, the tax paying land owners which fund district operations. If any ICS is created with the intent to transfer the ICS to Central Arizona, that ICS transfer should be deemed a transfer of Colorado River water requiring compliance with the DWR's transfer policy. Compliance with that policy, if at all, certainly cannot be obtained prior to, acceptance or rejection of ICS exhibits to be included Arizona's DCP. Therefore, MVIDD's exhibit should be rejected.

MCWA has previously requested a meaningful public process relative to the fallow plan under which ICS will be created be undertaken and that any approval of MVIDD's ICS exhibit require the public process occur. The open house hosted by DWR

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should not constitute that public process as many in the MVIDD community lack the financial capability to attend a meeting held on a normal work day 240 miles away. MCWA remains very concerned MVIDD will deem approval of its ICS Exhibit as approval of a fallow program and will undertake no meaningful public process to afford local, impacted residents an opportunity to be heard.

With regards to the most recent iteration of MVIDD's ICS Exhibit, MCWA offers the following comments. MVIDD proposes to establish and administer the program at a local level. No details are given relative to the local program or the process to adopt that program. MVIDD proposes to include 50% of the agricultural lands within the district in its ICS Exhibit. The inclusion of 50% of the agricultural land is a very high percentage of land to include in a fallow program and will certainly have a negative impact on the local agricultural industry. The MVIDD ICS exhibit references impact mitigation but fails to include any description of what that means. Does it include economic mitigation to individuals or businesses impacted by the elimination of 50% of a local industry? How many jobs will be eliminated by farmers as a result of their participation in the program? Certainly, some jobs will be impacted as the number of employing farmers, not just landowners leasing or otherwise participating in a farming venture, is very small, perhaps 3 or 4 in number.

Wind is a significant factor, effectively limiting the crops cultivated as a result of the dry, hot, windy, and often dusty conditions. Dust, in particular, is of significant concern in the local community. Farm fields are intermixed with urban development, (residences, schools, businesses, and recreational uses) with some farm fields located immediately adjacent to residential subdivisions. The old and young are particularly susceptible to dust related health issues. There are approximately 15,000 residents within MVIDD who may be impacted by a fallowing program. Their interests deserve consideration. Specific questions relative to dust mitigation are: Does the district contemplate using chemicals on fields and/or field roads for dust control? If so, what type of chemicals? And at whose expense? Will a public notice be issued before application of any chemicals? Will a crop cover be used? If so, what type of crop? How effective will that crop cover be? How much water will that crop use? Will weed abatement be required? And what action will be taken to control dust on the roads? Will the roads be watered regularly? How will water used in dust mitigation be taken into account in determining conserved water? What process, if any, will be adopted by the district to respond and resolve complaints of area residents?

The quantity of water to be conserved and the method of quantification is also of concern. The exhibit proposes to create up to 10,000 a.f. of conserved water per year by fallowing lands. MCWA believes this number to be unrealistically high, especially in light of discussion by and among the board at its October special meeting that 7,700 a.f. was a more realistic number, especially if 50% of the fields are to be fallowed in any given year.

The proposed method of quantification is questionable. An assigned consumption use based upon district's data, or another district's data, is unacceptable. The Bureau of Reclamation (BOR) determines the consumptive use for the District as a part of its annual accounting. Any change from this method is unacceptable. The BOR determination of consumptive use is used by all lower basin states and an exception for one district is unjustified. The change in the calculation of how much water is consumptively used can only be changed when the BOR completes a study showing the necessity for such a change.

Of some concern is the express representation in the exhibit "all fields within MVIDD have metered water delivery systems." At the time the exhibit was submitted, the statement was untrue. At the open house, a district representative advised the farmers were installing meters. However, no information the type of meters to be installed or when and where the meters would be installed was provided.

The amount of conserved water needs to be established in a manner consistent with Lower Colorado River Accounting System. The costs of any study conducted to determine conserved water should not be borne by the district and its tax and rate payers, but rather should be subsumed into the agricultural water rate. The non-voting tax payers and residents should not subsidize agriculture, especially when the farmers simply want to sell the water for profit.

Farmers in MVIDD have openly stated their desire to monetize their right to use the water to the exclusion of other land owners in the district. Those farmers believe they own the water and may deal with it as they want because they control the board even though the entitlement is held by the district. The board has evidenced this position in its a) rescission of longstanding resolution 90-1 prohibiting transfers of water outside the district, b) adopting Resolution 2018-04 expressly allowing transfers of water outside the district even when lands within the district are without an allocation, c) very restrictive, anti-speculative policy relative to water committed to residential or commercial

development, d) efforts to transfer water to Central Arizona in 2018 for the personal financial gain of the board members, and e) in their publicly articulated desire to create ICS to sell to CAWCD for delivery to "fellow farmers" in Pinal county. Right now, there are farmers in MVIDD awaiting an agricultural allocation, yet the board members continue to try to monetize the district's water for their own personal gain.

MCWA has serious concerns sufficient water is available within the district to serve all its lands. MWCA further believes any water not required to serve MVIDD district lands should remain on the main stem and be transferred to lands in Mohave County adjacent to the river which lack a water entitlement. No other water is available for use by those lands.

MCWA continues to support the creation of ICS consistent with the 07 Guidelines, provided that ICS is required to be delivered for use back to the service area from which it is created, consistent with the terms of its entitlement contract. MCWA opposes the creation of ICS as a vehicle to allow certain users to benefit financially to the detriment of the larger community. The stated purposes for ICS creation is to better manage water supplies and to maintain lake levels. Transferring water from a community with a finite water source with unsatisfied service request to Central Arizona does not better manage that water supply and is not sound water policy. Any contemplated transfer of ICS should be subject to DWR's water transfer policy.

The concept of indirect transfers is of great concern to MCWA, and its members. MCWA, and its members, oppose the creation of ICS to be delivered to Central Arizona or converted to system conservation water as a DCP contribution for the benefit of Central Arizona. The river system only benefits from the creation of system conservation water if that water is on top of the DCP contributions.¹ Any ICS delivered to Central Arizona or to be converted to system conservation water to meet DCP contributions results in an indirect transfer of water to central Arizona to the detriment of on-river communities. The MCWA member on-river communities have a limited water entitlement with no other sources of water available. To allow water to leave the district when not all district lands have a water allocation and not all requests for water have been satisfied is unsound water management policy on any level and would likely not be

¹ MCWA acknowledges the crucial role of system conservation water created by Colorado River Indian Tribe to meet the offset component of Arizona DCP as well as the benefits to the system from the creation of system conservation water under prior programs.

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approved under a water transfer request. MCWA, as well as other on-river contractors have consistently opposed transfers of water off the main stem. MCWA will continue to oppose such transfers.

In closing, MCWA wishes to express its support of Arizona DCP and the appropriate use of water management tools such as ICS and system conservation. It does not support the use of those tools to affect an indirect transfer of water from one service area to another. MVIDD's exhibit is a clear attempt to transfer water indirectly and therefor should be rejected.

Very truly yours,

MOHAVE COUNTY WATER AUTHORITY



Mark Clark
Chairperson

MC/kc

cc: Commissioner Brenda Burman, Bureau of Reclamation
Regional Director Terry Fulp, Bureau of Reclamation, Lower Colorado Region
Chairman Charles B. Sherrill Jr., MVIDD Board of Directors