

**SECOND AMENDMENT TO THE AGREEMENT FOR  
THE IMPLEMENTATION OF A WATER CONSERVATION PROGRAM AND USE OF  
CONSERVED WATER BETWEEN THE IMPERIAL IRRIGATION DISTRICT AND  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**THIS SECOND AMENDMENT** to the December 22, 1988 Agreement for the Implementation of a Water Conservation Program and Use of Conserved Water, as first amended on October 10, 2003 (First Amendment) is made and entered into the 14<sup>th</sup> day of May, 2007, by and between Imperial Irrigation District, a California irrigation district (IID) and The Metropolitan Water District of Southern California, a California metropolitan water district (MWD), each of which is at times referred to individually as "Party" and which are at times collectively referred to as "Parties."

**RECITALS**

RECITALS, A. through H. in the Agreement for the Implementation of a Water Conservation Program and Use of Conserved Water (Agreement) remain in effect and the Recitals are hereby amended with the addition of Recital I. as follows:

"I. The Parties desire to further amend the Agreement to stabilize the quantity of water conserved and reduce the anticipated increase in the cost of the water conservation program."

NOW THEREFORE, for and in consideration of amended mutual obligations and undertakings set forth herein, the Parties hereby agree as follows:

1. **AMENDMENT TO SECTION 1.1**

On Page 4 of the Agreement, at the sixth line of the third paragraph, revise the word "are" to the phrase "were, at the time this Agreement was originally executed,".

Section 1.1 as amended, will read as follows:

"Section 1.1. Description of the Program. The Program shall comprise structural and non-structural projects generally consisting of the lining of existing canals, construction of reservoirs and interceptors, installation of gates and automation equipment together with monitoring and management measures which in total were, at the time this Agreement was originally executed, estimated to conserve 100,000 AF of water annually for use by MWD. These projects are as set forth in Appendix A to this Agreement and a general description of the projects and locations are contained in Appendix E."

2. AMENDMENT TO SECTION 1.3

On Page 2 of the first Amendment, at the sixteenth line of the first partial paragraph, after the word “year” insert “prior to January 1, 2007”. Immediately after this sentence, insert “Beginning January 1, 2007, IID has no rights under this Section to substitute projects that would cause a reduction in the volume of Conserved Water made available to MWD to less than 105,000 AF per year.”

Section 1.3, as amended, will read as follows:

“Section 1.3. Modification and Substitution of Projects. It is recognized and agreed that subject to further investigation, IID may find it desirable to modify projects set forth in Appendix A or substitute other projects therefor. Such modification or substitution may be undertaken by IID provided that the cost of a modified or substituted project would not exceed the estimated total cost, including the capital equivalent of the annual direct costs, in 1988 dollars, of the original project, delay the availability of the respective estimated conserved water, or reduce the respective estimated amount of water conserved, all as determined by the Program Coordinating Committee using standard established engineering procedures and economic practices and the respective estimates set forth in Appendices A, B, C, and D. In the event the feasibility-level estimate of capital costs in 1988 dollars for the total Program exceeds the estimate set forth in Appendix B, then IID shall:

- (a) substitute projects as necessary such that the sum of the feasibility-level estimate of capital costs and the capital equivalent of the annual direct costs for the total Program, both in 1988 dollars, does not exceed the sum of the estimate of capital costs in Appendix B and the capital equivalent of the annual direct costs in Appendix C, and the conserved water is not reduced below or delayed beyond the estimates set forth in Appendix A and Appendix D, all as determined by the Program Coordinating Committee; or
- (b) obtain written approval from MWD to proceed with the total Program at a higher capital cost estimate.

IID has no rights under this Section to substitute projects in order to cause a reduction in the volume of Conserved Water made available to MWD to 100,000 AF per year prior to January 1, 2007. Beginning January 1, 2007, IID has no rights under this Section to substitute projects that would cause a reduction in the volume of Conserved Water made available to MWD to less than 105,000 AF per year.”

3. AMENDMENT TO SECTION 2.1(g)

On Page 13 of the Agreement at the beginning of the first sentence of Section 2.1(g), delete “A program of verification of conservation efforts and the measurement of water conserved by the Program and its several projects including the costs of necessary consultants and staff of IID and associated”, and insert “Associated”. At the end of the first sentence after the word “water”, insert “and through December 31, 2006, a program

of verification of conservation efforts and the measurement of water conserved by the Program and its several projects including the costs of necessary consultants and staff of IID”.

Section 2.1(g), as amended, will read as follows:

“(g) Associated legal and other professional services and court costs for any challenges, excepting by IID or MWD, relating to the quantity of the conserved water and through December 31, 2006, a program of verification of conservation efforts and the measurement of water conserved by the Program and its several projects including the costs of necessary consultants and staff of IID.”

4. AMENDMENT TO SECTION 2.3(c)

On Page 16 of the Agreement at the beginning of the first sentence of Section 2.3(c), delete “A program of verification of conservation efforts and the measurement of water conserved by the Program and its several projects including the costs of necessary consultants and staff of IID and associated”, and insert “Associated”. At the end of the first sentence after the word “water”, insert “and through December 31, 2006, a program of verification of conservation efforts and the measurement of water conserved by the Program and its several projects including the costs of necessary consultants and staff of IID”.

Section 2.3(c), as amended, will read as follows:

“(c) Associated legal and other professional services and court costs for any challenges, excepting by IID or MWD, relating to the quantity of the conserved water and through December 31, 2006, a program of verification of conservation efforts and the measurement of water conserved by the Program and its several projects including the costs of necessary consultants and staff of IID.”

5. AMENDMENT TO SECTION 3.2

On Page 19 of the Agreement, second line of the first full paragraph after the acronym “MWD”, delete “is presently estimated” and insert “was estimated, at the time this Agreement was originally executed,”.

On Page 19 of the Agreement, fourth line of the first full paragraph after the word “estimated”, insert “, at the time this Agreement was originally executed”.

On Page 19 of the Agreement, sixth line of the first full paragraph after the word “it”, delete “is” and insert “was, at the time this Agreement was originally executed”.

Section 3.2 as amended, will read as follows:

“Section 3.2. Amount. The amount of water to be conserved by the Program and to be made available for use by MWD was estimated, at the time this Agreement was originally executed, to be 100,000 AF annually. The amount of water estimated, at the time this Agreement was originally executed, to be conserved by each project of the Program, and the total amount for each year of the Agreement, are as presented in Appendix D. It was, at the time this Agreement was originally executed, projected that the total amount of conserved water will be available by January 1, 1994, in accordance with the following schedule:

<u>Effective Date</u>	<u>New Water Conserved and Available for Use by MWD (in AF/yr.)</u>	<u>Cumulative Amount Of New Water Conserved and Available for Use by MWD (in AF/yr.)</u>
1-1-90	38,610	38,610
1-1-91	14,745	53,355
1-1-92	10,490	63,845
1-1-93	22,940	86,745
1-1-94	13,215	100,000
1-1-95 and each year thereafter until modified pursuant to Section 3.3	---	100,000

Conserved water shall be made available for use by MWD in accordance with the foregoing schedule unless modified by a delay in the construction schedule of the Program or any of its projects as recognized in Section 1.4. In the event of such delay, the Program Coordinating Committee shall revise the above schedule to reflect such delay so that the amount of water conserved by each project will be made available to MWD commencing January 1 of the year following completion of construction or initial operation, whichever is later.”

6. AMENDMENT TO SECTION 3.3

On Page 20 of the Agreement, fourth line of the first paragraph after the word “Program”, delete “are” and insert “were”.

On Page 20 of the Agreement, fifth line of the first paragraph after the word “at”, delete “this time” and insert “the time this Agreement was originally executed”.

Beginning on Page 21 of the Agreement, last line, and continuing on Page 22, first line, after the word “intervals,” delete “for the balance of the term of this Agreement” and insert “through December 31, 2006”.

On Page 22 of the Agreement, eighth line of that page after the word “contrary”, insert “prior to January 1, 2007”.

On Page 22 of the Agreement, ninth line of that page after the word “arbitration”, insert “prior to January 1, 2007. Effective January 1, 2007, the total amount of conserved water that will be available is 105,000 acre-feet per annum with continued operation of 24 tailwater recovery systems or implementation of a potable water conservation program with funding to be potentially provided by MWD as set forth in Section 4.1(iii) of the December 19, 1989 Approval Agreement as amended. If the amount of Conserved Water from Project 18 combined with any Conserved Water from a potable water conservation project funded by MWD is less than 3,500 acre-feet per annum, IID’s obligation to reduce its diversion from the Colorado River is decreased by an annual amount equal to the difference between 3,500 acre-feet and the amount conserved.”

On Page 22 of the Agreement, ninth line of the page after the word “event”, insert “prior to January 1, 2007,”.

On Page 22 of the Agreement, fifteenth line of the page after the word “event”, insert “prior to January 1, 2007,”.

On Page 22 of the Agreement, twenty-fifth line of the page before the word “Program”, delete “original”.

Section 3.3 will read, as amended, as follows:

“Section 3.3. Amount Subject to Review and Modification. It is recognized and agreed that the estimate of 100,000 AF annually to be conserved by the Program and the amount to be conserved by each project of the Program were based on information and data available at the time this Agreement was originally executed, but that the actual verification cited in Section 2.1(g) and the experience of actual operation and the continuing investigations cited in Section 2.3(c) may result in a determination of a different total amount of conserved water and differing amounts conserved by the several projects of the Program. Therefore, within one year after the effective date of this Agreement, the Program Coordinating Committee shall appoint one or more consultants with recognized competence in the field of water conservation and measurement. The consultant(s) shall serve at the pleasure of the Program Coordinating Committee. During the construction period, the consultant(s) will be available to IID to advise IID of the measuring devices and techniques that should be used for the measurement of conserved water from the Program, and within six months after the appointment of the consultant(s), the consultant(s) shall recommend to the Program Coordinating Committee the measures to be undertaken and facilities to be installed for verification of amounts of conserved water from the Program. To the extent such measures and facilities are approved by the Program Coordinating Committee, IID shall implement the measures and construct the facilities in a timely manner to permit an accurate determination of the quantity of water conserved from each project of the Program by the end of calendar year 1994. Commencing in calendar year 1994, and in each of the four successive years thereafter,

the consultant(s) will review the then available information and data with respect to the amounts of water conserved by the Program and each project thereof, and report the findings to the Program Coordinating Committee, and if recommended by the consultant(s) and approved by the Program Coordinating Committee, the total amount of water available for use by MWD under this Agreement in the ensuing years shall be adjusted to reflect the revised determination of the quantity of water conserved from the Program. Following these initial five annual reviews, such reviews and reports to the Program Coordinating Committee shall be made by the consultant(s) at five-year intervals through December 31, 2006. The Program Coordinating Committee shall provide all such reports and relevant data to the Secretary, Coachella, and Palo Verde. It will be presumed that the total amount of water conserved and the amount of water conserved by each project of the Program are as shown in Section 3.2 and Appendix D, until a technical determination is made by the Program Coordinating Committee to the contrary prior to January 1, 2007, or until a different amount is established by final court judgment or arbitration prior to January 1, 2007. Effective January 1, 2007, the total amount of conserved water that will be available is 105,000 acre-feet per annum with continued operation of 24 tailwater recovery systems or implementation of a potable water conservation program with funding to be potentially provided by MWD as set forth in Section 4.1(iii) of the December 19, 1989 Approval Agreement as amended. If the amount of Conserved Water from Project 18 combined with any Conserved Water from a potable water conservation project funded by MWD is less than 3,500 acre-feet per annum, IID's obligation to reduce its diversion from the Colorado River is decreased by an annual amount equal to the difference between 3,500 acre-feet and the amount conserved. In the event prior to January 1, 2007, a technical determination is made by the Program Coordinating Committee, or a final court judgment or arbitration establishes, that the total amount of water conserved is more than 100,000 AF annually MWD shall be entitled to receive the additional water. All provisions of this Agreement shall apply to this additional water. In the event prior to January 1, 2007, a technical determination is made by the Program Coordinating Committee, or a final court judgment or arbitration establishes, that the total amount of water conserved is less than 100,000 AF annually, then IID shall proceed to implement additional conservation features to be paid for by MWD which would conserve annually an amount of water equal to the difference between 100,000 AF and the amount determined to have been conserved by the Program, provided that the unit cost in 1988 dollars of water conserved by such additional features does not exceed the average unit cost in 1988 dollars of water of the Program as determined by the Program Coordinating Committee. All provisions of this Agreement shall apply to these additional features and the water conserved thereby."

5. AMENDMENT TO SECTION 4.8


On Page 29 of the Agreement, at the end of the seventh line of Section 4.8, insert "Beginning January 1, 2007, funds provided or previously provided by MWD to IID shall not be used for a program of verification of conservation efforts and the measurement of water conserved by the Program and its several projects."

Section 4.8 will read, as amended, as follows:

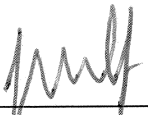
Section 4.8. Limitation on Use of Funds. Funds provided by MWD to IID under this Agreement shall not be used by IID for negotiations with MWD or legal fees incurred by IID to resolve disputes with MWD regarding interpretation or enforcement of this Agreement nor may such funds be used by IID to test its contentions set forth in Article VI or for conservation projects undertaken in furtherance of such contentions. Beginning January 1, 2007, funds provided or previously provided by MWD to IID shall not be used for a program of verification of conservation efforts and the measurement of water conserved by the Program and its several projects.”

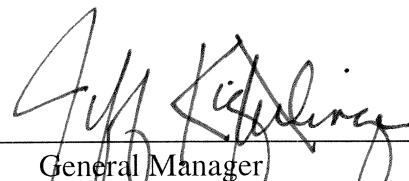
6. AGREEMENT TO GOVERN. This Second Amendment shall be interpreted in a manner consistent with, and in furtherance of the objectives of, the Quantification Settlement Agreement and the related Acquisition Agreements. Except as expressly amended by the First Amendment and this Second Amendment to the Agreement, the Agreement’s mutual obligations and undertakings shall remain in full force and effect.
7. EFFECTIVE DATE. The amendments to the Agreement and its First Amendment made by this Second Amendment will take effect on January 1, 2007.


IN WITNESS WHEREOF, the Parties hereto have executed this Second Amendment to the Agreement on the day and year first above written.

By:   
~~President~~ General Manager  
Imperial Irrigation District

APPROVED AS TO FORM:

By:   
General Counsel  
Imperial Irrigation District

By:   
General Manager  
The Metropolitan Water District of  
Southern California

By:   
General Counsel  
The Metropolitan Water District of  
Southern California

Mr. Kevin E. Kelley

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December 18, 2014

bcc: T. Blair  
K. A. Donhoff  
M. W. Hughes  
J. Kightlinger  
D. C. Man  
H. M. Ruzgerian  
J. S. Safely  
M. L. Scully  
D. N. Upadhyay  
WRM files





THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

*Office of the General Manager*

December 18, 2014

Mr. Kevin E. Kelley  
General Manager  
Imperial Irrigation District  
P. O. Box 937  
Imperial, CA 92251

Dear Mr. Kelley:

2014 Imperial Irrigation District Letter Agreement

The purpose of this letter agreement between The Metropolitan Water District of Southern California (MWD) and Imperial Irrigation District (IID) is to confirm and agree upon certain project substitutions and conservation modifications allowed under the AGREEMENT FOR THE IMPLEMENTATION OF A WATER CONSERVATION PROGRAM AND USE OF CONSERVED WATER entered into on December 22, 1988 and subsequently amended in 2003 and 2007 (the "Agreement") as provided below.

Under the Agreement, MWD and IID established a Water Conservation Program funded by MWD and implemented by IID (Program). The Program consists of various water conservation projects including a 12-Hour Delivery (12-HD) project (Project 9) and an Additional Irrigation Water Management project (Project 18) as specified in Exhibit A of the APPROVAL AGREEMENT entered into on December 19, 1989 and subsequently amended in 2003 and 2007. Project 18 includes tailwater return (recovery) systems (TRS).

Under the terms of the Agreement, specifically, sections 1.3 and 3.3, subject to the approval of the Program Coordinating Committee (PCC), MWD and IID are authorized to substitute conservation projects to maintain 105,000 acre-feet (AF) of conserved water under the Agreement.

Accordingly, MWD and IID agree to the following terms and conditions:

1. Before December 31, 2014, IID and MWD will develop and submit to the PCC for approval pursuant to Section 1.3 of the Agreement a substitute project to begin in 2015 which will provide that:
  - a. MWD will fund 33,888 Project 9 12-HDs per year for the term of the Agreement as an annual direct cost in accordance with the terms of Section 2.3 of the

Mr. Kevin E. Kelley  
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Agreement. In total (including b and c below) 38,285 12-HDs are the number of irrigation events to be funded by MWD in order to generate the relevant volume of conservation required from this project in support of the full 105,000 AF of conservation required by the Agreement, specifically in the 2007 amendment.

- b. Effective January 1, 2015 the Project 18 TRS are eliminated from the Agreement and replaced by 3,500 AF of conserved water from the 12-HDs from Project 9; MWD will not fund any new TRS expenses or receive the benefit of any future conservation attributable to these TRS. The TRS Replacement Reserve Fund will be used to complete any pending operational and maintenance requests made prior to December 31, 2014, and once those activities have been completed the Fund will be eliminated and the balance will be credited to the next call for funding following the January 2015 funding call, which is anticipated to occur in July 2015. Effective, January 1, 2015, MWD relinquishes any claims to conserved water from the Project 18 TRS currently under contracts executed by IID or otherwise amortized.
  - c. MWD will fund an additional 5% (equivalent to an additional 1,823 12-HDs) of the Project 9 12-HD budget funded by MWD per year as an annual direct cost incurred by IID for system impacts caused by the 36,462 12-HDs that MWD pays for. If IID establishes the actual cost of system impacts caused by the 36,462 12-HDs MWD funds, and if the PCC concurs, MWD will pay that amount, but in no case will MWD pay IID more than 10% (-equivalent to an additional 3,646 12-HDs) of the 12-HD budget funded by MWD for 12-HD actual system impact costs.
  - d. For 2014, the conserved water attributable to Project 18 TRS is 2,600 AF for a total Program conservation yield of 104,100 AF.
2. Upon PCC approval of the substitute project specified above, MWD and IID agree to the following:
- a. MWD will pay IID's funding call for the unpaid balance of the actual 2014 Project 9 12-HD budget of \$5,746,907.13 within 30 days of the date an invoice is received by MWD for the amount specified herein, or by December 31, 2014, whichever is later.
  - b. Metropolitan will not object to IID reducing its diversion from the Colorado River below that which it would otherwise have been absent the non-Metropolitan funded 12-HDs and TRSs in an amount equal to the quantity of water conserved by the non-Metropolitan funded 12-HDs and TRSs to permit the water so made

Mr. Kevin E. Kelley  
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available to be delivered by the Secretary of the Interior in accordance with the terms of the October 10, 2003 Colorado River Water Delivery Agreement: Federal Quantification Settlement Agreement for purposes of Section 5(B) of Interim Surplus Guidelines and to meet IID's inadvertent overrun payback obligations or to eliminate or reduce an inadvertent overrun.

- c. Notwithstanding anything to the contrary in the Agreement and in accordance with the terms of this letter agreement, beginning January 1, 2015, IID will have no rights to materially modify the 12-HD Project (Project 9) as approved by the PCC in December 2014 or to substitute another project therefor without MWD's written consent.
3. Previously, the total amount of conserved water available with continued operation of 24 TRS or implementation of a potable water conservation program with funding to be potentially provided by MWD as set forth in Section 4.1(iii) of the December 19, 1989 Approval Agreement, as amended, was 105,000 acre-feet per annum and if the amount of Conserved Water from Project 18 combined with any Conserved Water from a potable water conservation project funded by MWD is less than 3,500 acre-feet per annum, IID's obligation to reduce its diversion from the Colorado River was decreased by an annual amount equal to the difference between 3,500 acre-feet and the amount conserved.
4. The substitutions and modifications provided herein are made pursuant to and in accordance with the Agreement; however, to the extent the terms and conditions herein conflict with the Agreement, the terms and conditions herein control.
5. As this letter agreement addresses only MWD's and IID's rights and duties with respect to each other, should any conflict exist between the provisions herein, the Agreement, or the APPROVAL AGREEMENT among IID, MWD, Palo Verde Irrigation District, and Coachella Valley Water District entered into on December 19, 1989 and amended in 2003 and 2007, this letter agreement controls.
6. Effective January 1, 2016, the total amount of conserved water that will be available is 105,000 AF per annum. For 2015, the total amount of conserved water that will be available is 107,820 AF.

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December 18, 2014

Please confirm this agreement by signing on behalf of IID and return to me a copy of this letter.

Very truly yours,

IMPERIAL IRRIGATION DISTRICT

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

By: \_\_\_\_\_  
Kevin E. Kelley  
General Manager

By:   
Jeffrey Kightlinger  
General Manager


Date: \_\_\_\_\_

Date: 12/18/14

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Joanna Smith Hoff  
Counsel

By:   
Marcia L. Scully  
General Counsel

Date: \_\_\_\_\_

Date: 12/18/14

Mr. Kevin E. Kelly  
Page 4  
December 17, 2014

Please confirm this agreement by signing on behalf of IID and return to me a copy of this letter.

Very truly yours,

IMPERIAL IRRIGATION DISTRICT

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

By:

Kevin E. Kelley  
Kevin E. Kelley  
General Manager

By:

\_\_\_\_\_  
Jeffrey Kightlinger  
General Manager

Date:

12/18/14

Date:

\_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By:

Joanna Smith Hoff  
Joanna Smith Hoff  
Counsel

By:

\_\_\_\_\_  
Marcia L. Scully  
General Counsel

Date:

12/18/14

Date:

\_\_\_\_\_