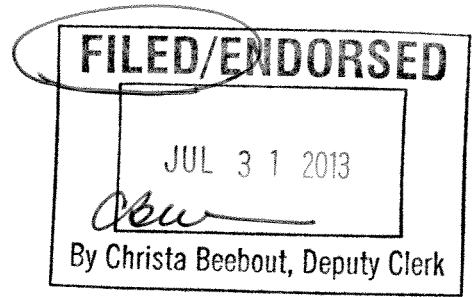


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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

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Coordination Proceeding  
Special Title (Rule 1550(b))

QSA COORDINATED CIVIL CASES

PROTECT OUR WATER AND  
ENVIRONMENTAL RIGHTS (POWER) v.  
IMPERIAL IRRIGATION DISTRICT

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Case No. JCCP 4353  
Department No. 47

JUDGMENT

Imperial County Superior Court,  
Case No. ECU01653/Sacramento  
Superior Court Case No. 04CS00877

The Court of Appeal having reversed the judgments in the coordinated cases of Imperial County Case No. ECU01649/Sacramento County Case No. 04CS00875, Imperial County Superior Court Case No. ECU01653/Sacramento Superior Court Case No. 04CS00877, and Imperial County Superior Court Case No. ECU01656/Sacramento Superior Court Case No. 04CS00878), and having remanded the cases to the trial court for adjudication of the outstanding issues in Case No. ECU01649 and adjudication of the issues arising under the California Environmental Quality Act in Case Nos. ECU01653 and ECU01656 (*In re Quantification Settlement Agreement Cases*, 201 Cal.App.4th 758, 836, 847, 862,

Trial having been held pursuant to the instructions of the Court of Appeal on November 13 and 14, 2012, in the above-entitled court, the Honorable Lloyd G. Connelly presiding,

1 The parties having appeared at trial and presented oral argument  
2 through counsel, as set forth in the court minutes titled "Court Trial - Day One" and  
3 "Court Trial - Day Two," copies of which are attached hereto and incorporated  
4 herein,

5 The matter having been submitted for decision and having been  
6 subsequently reopened for additional briefing and resubmitted,

7 A Ruling on Submitted Matter have been filed by the court and identified  
8 as the court's proposed statement of decision,

9 Parties' objections to the proposed statement of decision having been  
10 filed,

11 The court having revised the proposed statement of decision in response  
12 to the parties' objections and having filed a Final Statement of Decision on July 31,  
13 2013, which is incorporated into this judgment as though fully set forth,

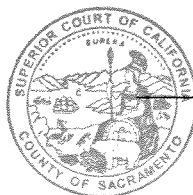
14 IT IS ORDERED, ADJUDGED AND DECREED that:

15 1. The petition is denied.

16 2. Pursuant to rule 3.1700 of the California Rules of Court, IID, San  
17 Diego County Water Authority, Coachella Valley Water District, and Metropolitan  
18 Water District of Southern California shall recover their costs of suit only to the  
19 extent that they do not claim the same costs pursuant to paragraph 2 of the  
20 judgment in Imperial County Case No. ECU01649/Sacramento Superior court.

21 3. The court reserves jurisdiction to hear and determine motions for  
22 attorney fees filed pursuant to rule 3.1702 of the California Rules of Court which are  
23 not claimed in any motion filed pursuant to paragraph 3 of the judgment in Imperial  
24 County Case No. ECU01649/Sacramento Superior Court.

25 Dated: July 31, 2013



26 *Lloyd G. Connelly*

27 LLOYD G. CONNELLY  
28 Judge of the Superior Court (Retired)

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

AMENDED 11/16/12

DATE/TIME : NOVEMBER 13, 2012 9:00 a.m.  
JUDGE : LLOYD G. CONNELLY  
REPORTER : V. HALEY, #10771

DEPT. NO : 33  
CLERK : C. BEEBOUT  
ATTENDANT : R. SANCHEZ-JACOBO  
T

COORDINATED PROCEEDINGS SPECIAL TITLE (RULE 1550(b))

QSA COORDINATED CIVIL CASES

Case No.: JCCP 4353

Nature of Proceedings: COURT TRIAL – DAY ONE

The above-entitled cause came before this Court on this date for trial with the following counsel/parties present:

Party	Counsel
Barioni/Krutzsch Parties <i>(Donald V. Barioni, Beach Line Citrus LLC, Bixby Land Company, Robert S. Chell, Coast Imperial Partners, Donald L. Howard and Kimberlee A. Howard as trustees, Chrisman B. Jackson, Mary A. Jackson and Chrisman B. Jackson as trustees, John D. Jackson Jr. individually and as trustee, Margaret M. Lillywhite and Daniel H. Lillywhite as trustees, Daniel H. Lillywhite and Robin J. Lillywhite as trustees, Rosal Randes, Sali Properties, The Sinclair Ranches LLC, TAC Land LLC, and Charles H. Westmoreland and Alexa Westmoreland as trustees)</i>	Lowell F. Sutherland
City of Escondido	Donald R. Lincoln
Coachella Valley Water District	Michelle Ouellette, Melissa R. Cushman and Steven B. Abbott
County of Imperial	Antonio Rossmann, Roger B. Moore and Barton Lounsbury
Cuatro Del Mar	Malissa Hathaway McKeith & Ernest Stone
Imperial County Air Pollution Control District	Alene M. Taber, Kathryn M. Casey and Jonathan E. Shardlow
Imperial Irrigation District	Mark J. Hattam, Jeffrey A. Chine & Kathryn D. Horning
Ronald Leimgruber	In propria persona
Metropolitan Water District of Southern California	Adam C. Kear & John Schlotterbeck, Sr.
Morgan/Holtz Parties <i>(Walter Holtz, Toni Holtz, Michael W. Morgan, John J. Elmore, Richard Elmore, Gary Foster and Rodney Foster)</i>	Thomas S. Virsik
Protect Our Water and Environmental Rights	Rose M. Zoia
San Diego County Water Authority	Lisabeth D. Rothman, Amy M. Steinfeld and Daniel S. Hentschke
State of California by and through the Department of Water Resources and the Department of Fish and Game	Clifford T. Lee
Vista Irrigation District	Joel D. Kuperberg

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PAGE : 4353MO111312  
DATE : NOVEMBER 13, 2012  
CASE NO. : JCCP 4353  
CASE TITLE : QSA COORDINATED CIVIL CASES

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SACRAMENTO

BY: C. BEEBOUT,  
Deputy Clerk

**CASE NUMBER: JCCP 4353**  
**CASE TITLE: QSA COORDINATED CIVIL CASES**  
**PROCEEDINGS: COURT TRIAL – DAY ONE**

**DEPARTMENT: 33**

Off the record, the Court directed the following parties to sit at the counsel table: County of Imperial, Imperial County Air Pollution Control District, Imperial Irrigation District, and Metropolitan Water District of Southern California.

Off the record, the Court directed the following parties to sit at the first overflow counsel table in the audience area: Coachella Valley Water District, San Diego County Water Authority, and State of California.

The Court advised counsel that the Court was prohibiting oral argument on evidentiary objections, especially as they related to the requests for judicial notice; objections on the scope of pleadings; and prior ruling limitations with the possible exception of Statement of Decision #18. The Court prohibited arguments in these areas because these areas were already well briefed in the pleadings.

The Court advised counsel that the Court discouraged oral argument on exhaustion, jurisdiction, statute of limitations, the Brown Act, ultra vires, the authority to contract under the Water Code, and duress. The Court discouraged arguments in these areas because these areas were already well briefed in the pleadings.

The Court advised counsel that the Court would like to hear more about the facts in this case than hear arguments about the law. The Court noted that it was difficult to find documents in the administrative record which were cited in the briefs and determine what document was being cited. The Court spoke briefly about the usefulness of the compendiums lodged by the parties. The Court advised counsel that the Court would have lots of questions about CEQA and very few about validation because validation was well briefed in the pleadings.

The Court posed questions and heard oral arguments from the parties in the following areas:

1. The failure to designate a single lead agency and the responsibilities of co-lead agencies. (Counsel directed the Court's attention to Administrative Record 4-5-379-25300 and Administrative Record 3-7-70265.)
2. The fundamental objections to the baseline methodology.
3. The chart entitled "Table 1: Seven Party Agreement" from pages 2 and 3 of the opening brief filed by Imperial County Air Pollution Control District.
4. The chart entitled "Colorado River Aqueduct Normal Year Deliveries" from page 27 of the opening brief filed by Metropolitan Water District of Southern California.
5. The modeling chart on page 43 of the response brief filed by Imperial Irrigation District. (Mark Hattam advised the Court that the chart, entitled "Table 3.0-1. Comparison of Salton Sea Existing Baseline, Future Baseline, and Proposed Project Impacts at the Salton Sea", appears in Administrative Record 3-11-200860. Mr. Hattam also directed the Court's attention to a related chart in Administrative Record 3-10-101804\_0216.)
6. The chart entitled "Diagram 5: Figure 3.5-2 Projected Mean Elevation of the Salton Sea Under Proposed Project and Baseline" from page 35 of the opening brief of the Imperial County Air Pollution Control District.
7. The chart entitled "Table 5: Effects With and Without Implementation of SSHCS" from page 36 of the opening brief of the Imperial County Air Pollution Control District.
8. The quantitative analysis of potential air effects from a dried up Salton Sea bed. (Alene Taber directed the Court's attention to the portion of the reporter's transcript found in Administrative Record #1 at pages 522493 through 522495.)
9. The No Project alternative verses baseline for the Salton Sea. (Lisabeth Rothman directed the Court to Administrative Record 3-17-513818 through 3-17-513827. Antonio Rossmann distributed a diagram to the Court and counsel.)

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**DATE : NOVEMBER 13, 2012**  
**CASE NO. : JCCP 4353**  
**CASE TITLE : QSA COORDINATED CIVIL CASES**

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SACRAMENTO**

**BY: C. BEEBOUT,**  
**Deputy Clerk**

**CASE NUMBER: JCCP 4353**  
**CASE TITLE: QSA COORDINATED CIVIL CASES**  
**PROCEEDINGS: COURT TRIAL – DAY ONE**

**DEPARTMENT: 33**

10. The October 2003 With Project addendums – HCP1, HCP2, and SSHCS. (Alene Taber directed the Court to Administrative Record 3-11-200190 through 3-11-200191. Mark Hattam directed the Court to Administrative Record 3-3-30109\_37 and 3-3-30109\_38.) The Court directed Mark Hattam to provide the Court with citation to the place where the Final EIR discusses that 2030 is not an actual time frame but may be shortened.
11. The mitigation increment verses the restoration increment.
12. The chart entitled “Table 2: Secretary's Priority 3(a) Colorado River Water Distribution for IIP” from page 14 of the opening brief of the Imperial County Air Pollution Control District.
13. The chart entitled “Table 1-2: Comparison of Original and Revised QSA Delivery Schedules” from Administrative Record 3-14-400128\_33.
14. The use of fallowing to create mitigation water. (The Court advised counsel that the Court did not understand the discussion of fallowing by Imperial Irrigation District in their response brief at page 62, lines 1 through 8. Counsel directed the Court to Administrative Record 3-14-400070, Administrative Record 101804\_320 to 101804\_321, and Administrative Record 3-12-204938. Mark Hattam filed a document entitled “Lodgment of Demonstrative Exhibit (“Water Lost to Salton Sea Examples”) Used by Imperial Irrigation District at Trial” with the Court and distributed copies to counsel.)
15. Validation, as it pertains to possible violation of the substantial rights of the parties in CEQA.
16. Validation, as it pertains to the approval of the 13 QSA contracts by Imperial Irrigation District. (Counsel directed the Court to Administrative Record 3-3-30080, 30101, 30113, 30129, and 30130.)

The Court advised counsel to reflect on the questions posed by the Court when counsel formulates their general oral arguments to be given tomorrow. The Court indicated that arguments on validation regarding federal jurisdiction in the broader sense (but not in the context of the Indians) and how CEQA relates to this project would be helpful.

The Court announced the evening recess at 3:55 p.m. and ordered this matter continued to November 14, 2012 at 9:00 a.m. in this department.

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**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SACRAMENTO**

**BY: C. BEEBOUT,**  
**Deputy Clerk**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO**

**DATE/TIME** : NOVEMBER 14, 2012 9:00 a.m.  
**JUDGE** : LLOYD G. CONNELLY  
**REPORTER** : V. HALEY, #10771

**DEPT. NO** : 33  
**CLERK** : C. BEEBOUT  
**ATTENDANT** : R. SANCHEZ-JACOBO  
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**COORDINATED PROCEEDINGS SPECIAL TITLE (RULE 1550(b))**

**QSA COORDINATED CIVIL CASES**

**Case No.: JCCP 4353**

**Nature of Proceedings: COURT TRIAL – DAY TWO**

The above-entitled cause came before this Court on this date for further trial with the following counsel/parties present:

Party	Counsel
Barioni/Krutzsch Parties <i>(Donald V. Barioni, Beach Line Citrus LLC, Bixby Land Company, Robert S. Chell, Coast Imperial Partners, Donald L. Howard and Kimberlee A. Howard as trustees, Chrisman B. Jackson, Mary A. Jackson and Chrisman B. Jackson as trustees, John D. Jackson Jr. individually and as trustee, Margaret M. Lillywhite and Daniel H. Lillywhite as trustees, Daniel H. Lillywhite and Robin J. Lillywhite as trustees, Rosal Randes, Sali Properties, The Sinclair Ranches LLC, TAC Land LLC, and Charles H. Westmoreland and Alexa Westmoreland as trustees)</i>	Lowell F. Sutherland
City of Escondido	Donald R. Lincoln
Coachella Valley Water District	Michelle Ouellette, Melissa R. Cushman and Steven B. Abbott
County of Imperial	Antonio Rossmann, Roger B. Moore and Barton Lounsbury
Cuatro Del Mar	Ernest Stone, Joe Salazar and Malissa Hathaway McKeith
Imperial County Air Pollution Control District	Alene M. Taber, Kathryn M. Casey and Jonathan E. Shardlow
Imperial Irrigation District	Mark J. Hattam, Jeffrey A. Chine and Kathryn D. Horning
Ronald Leimgruber	In propria persona
Metropolitan Water District of Southern California	Adam C. Kear & John Schlotterbeck, Sr.
Morgan/Holtz Parties <i>(Walter Holtz, Toni Holtz, Michael W. Morgan, John J. Elmore, Richard Elmore, Gary Foster and Rodney Foster)</i>	Thomas S. Virsik
Protect Our Water and Environmental Rights (POWER)	Rose M. Zoia
San Diego County Water Authority	Lisabeth D. Rothman, Amy M. Steinfeld and Daniel S. Hentschke
State of California by and through the Department of Water Resources and the Department of Fish and Game	Clifford T. Lee
Vista Irrigation District	Joel D. Kuperberg

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**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SACRAMENTO**

**BY: C. BEEBOUT,**  
Deputy Clerk

**CASE NUMBER: JCCP 4353**  
**CASE TITLE: QSA COORDINATED CIVIL CASES**  
**PROCEEDINGS: COURT TRIAL – DAY TWO**

**DEPARTMENT: 33**

Metropolitan Water District of Southern California filed their *Lodgement of Administrative Record Cites, Request for Judicial Notice, and Declaration of John D. Schlotterbeck in Support Thereof*.

The Court heard oral arguments during the morning session from Antonio Rossmann (County of Imperial), Alene M. Taber (Imperial County Air Pollution Control District), Rose M. Zoia (POWER), Thomas S. Virsik (Morgan/Holtz Parties), Lowell F. Sutherland (Barioni/Krutzsch Parties), Ernest Slome (Cuatro Del Mar), Joe Salazar (Cuatro Del Mar), Mark J. Hattam (Imperial Irrigation District), Jeffrey A. Chine (Imperial Irrigation District), John Schlotterbeck, Sr. (Metropolitan Water District of Southern California), Adam C. Kear (Metropolitan Water District of Southern California), and Lisabeth D. Rothman (San Diego County Water Authority).

Mark Hattam advised the Court that Imperial Irrigation District will file a cite-finding tool. Imperial Irrigation District also filed their *Lodgment of Demonstrative Exhibit ("QSA Timeline") Used by Imperial Irrigation District at Trial*, their *Notice of Citation References to Validation Administrative Record re Table 1-1 in Transfer Project Final EIR*, and their *Notice of Citation References to Model Data*.

Lisabeth Rothman advised the Court that San Diego County Water Authority will file a more user-friendly compendium and a list of citations.

The Court took the lunch recess from 11:40 a.m. to 1:30 p.m.

The Court heard oral arguments during the afternoon session from Clifford T. Lee (State of California), Steven B. Abbott (Coachella Valley Water District), Donald R. Lincoln (City of Escondido), Joel D. Kuperberg (Vista Irrigation District), and Malissa Hathaway McKeith (Cuatro Del Mar).

The Court heard second-round arguments during the afternoon session from Antonio Rossmann (County of Imperial), Alene M. Taber (Imperial County Air Pollution Control District), Rose M. Zoia (POWER), Thomas S. Virsik (Morgan/Holtz Parties), Ernest Slome (Cuatro Del Mar), Malissa Hathaway McKeith (Cuatro Del Mar), Mark J. Hattam (Imperial Irrigation District), Lisabeth D. Rothman (San Diego County Water Authority), Joel D. Kuperberg (Vista Irrigation District), John Schlotterbeck, Sr. (Metropolitan Water District of Southern California), and Donald R. Lincoln (City of Escondido).

The Court heard third-round arguments during the afternoon session from Antonio Rossmann (County of Imperial), Malissa Hathaway McKeith (Cuatro Del Mar), John Schlotterbeck, Sr. (Metropolitan Water District of Southern California), and Michelle Ouellette (Coachella Valley Water District).

The Court took this matter under submission at 3:47 p.m.

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**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SACRAMENTO**

**BY: C. BEEBOUT,**  
**Deputy Clerk**

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**CERTIFICATE OF SERVICE BY MAILING (C.C.P. Sec. 1013a(4))**


---

I, the Clerk of the Superior Court of California, County of Sacramento, certify that I am not a party to this cause, and on the date shown below I served the **JUDGMENT (ECU01653/04CS00877)** by depositing true copies thereof, enclosed in separate, sealed envelopes with the postage fully prepaid, in the United States Mail at 720 9<sup>th</sup> Street, Sacramento, California, each of which envelopes was addressed respectively to the persons and addresses shown on the attached service list.

I, the undersigned Deputy Clerk, declare under penalty of perjury that the foregoing is true and correct.

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

Dated: July 31, 2013

By: C. BEEBOUT,   
Deputy Clerk



**Coordination Proceeding Special Title (Rule 1550(b))  
QSA COORDINATION CIVIL CASES  
SERVICE LIST (revised 7/1/2013)**

<p>Chair, Judicial Council of California Administrative Office of the Courts Attn: Court Programs and Services Division (Civil Case Coordination) 455 Golden Gate Avenue San Francisco, CA 94102-3688</p>	<p>Daniel M. Fuchs Attorney General 1300 I St PO Box 944255 Sacramento, CA 94244-2550</p>
<p>Clifford T. Lee Attorney General 455 Golden Gate Ave #11000 San Francisco, CA 94102</p>	<p>Michelle Ouellette Melissa R. Cushman Best Best &amp; Krieger LLP PO Box 1028 Riverside, CA 92502-1028</p>
<p>Lisabeth D. Rothman Brownstein Hyatt Farber Schreck 2029 Century Park East #2100 Los Angeles, CA 90067-3007</p>	<p>Jeffrey Epp City Attorney 201 N. Broadway Escondido, CA 92025</p>
<p>Michael L. Rood Katherine Turner County Counsel 940 Main St #205 El Centro, CA 92243</p>	<p>John P. Carter Horton Knox Carter &amp; Foote 1221 W. State Street El Centro, CA 92243</p>
<p>Alene M. Taber Kathryn M. Casey Jackson DeMarco Tidus Peckenpaugh 2030 Main St, 12<sup>th</sup> Fl Irvine, CA 92614</p>	<p>R. Gaylord Smith Lisa Wilhelm Cooney Lewis Brisbois Bisgaard &amp; Smith LLP 701 B Street, Suite 1900 San Diego, CA 92101</p>
<p>Charles T. DuMars Patrick J. Redmond Law &amp; Resource Planning Associates, PC 201 Third St NW #1750 Albuquerque, NM 87102</p>	<p>Marcia L. Scully, Linus S. Masouredis, John D. Schlotterbeck &amp; Adam C. Kear Metropolitan Water District of Southern California 700 N. Alameda St. Los Angeles, CA 90012</p>
<p>Ronald Olson &amp; Henry Weissmann Munger Tolles &amp; Olson LLP 355 S. Grand Ave, 35<sup>th</sup> Floor Los Angeles, CA 90071</p>	<p>Kristin Linsley Myles Munger Tolles &amp; Olson LLP 560 Mission Street, 27<sup>th</sup> Floor San Francisco, CA 94105-2907</p>
<p>Steven B. Abbott Redwine &amp; Sherrill 1950 Market St Riverside, CA 92501-1720</p>	<p>Antonio Rossmann Roger B. Moore Barton Lounsbury Rossmann &amp; Moore LLP 2014 Shattuck Avenue Berkeley, CA 94704</p>

<p>Michael E. Busch  Kathleen A. Cashman-Kramer  Pyle Sims Duncan &amp; Stevenson  401 B St #1500  San Diego, CA 92101</p>	<p>Joel D. Kuperberg  Rutan &amp; Tucker LLP  611 Anton Blvd #1400  Costa Mesa, CA 92626</p>
<p>Daniel S. Hentschke  San Diego County Water Authority  4677 Overland Ave  San Diego, CA 92123</p>	<p>Stuart L. Somach  Somach Simmons &amp; Dunn  500 Capitol Mall #1000  Sacramento, CA 95814</p>
<p>Lowell F. Sutherland  Sutherland &amp; Gerber  2299 W. Adams Ave #102  El Centro, CA 92243</p>	<p>Donald R. Lincoln  6065 Avenida Chamnez  La Jolla, CA 92037</p>
<p>Patrick J. Maloney  Thomas S. Virsik  Law Offices of Patrick J. Maloney  2425 Webb Ave #100  Alameda, CA 94501-2922</p>	<p>Cressey H. Nakagawa, Esq.  5 Third St #1208  San Francisco, CA 94103-3213</p>
<p>Rose M. Zoia  50 Old Courthouse Square #401  Santa Rosa, CA 95404</p>	<p>Barbara E. Karshmer  c/o Hester &amp; Zehren LLC  726 Front St, Ste B  Louisville, CO 80027</p>
<p>Alex Jack  PO Box 116  Brawley, CA 92227</p>	<p>Ronald C. Leimgruber  Laura L. Leimgruber  646 Olive Ave  Holtville, CA 92250</p>
<p>Elizabeth McFarland  3220 Lakeside Village Dr  Prescott, AZ 86305</p>	