

ATTACHMENT 3: JUNE 27, 2003 STAFF REPORT AND RESOLUTION

**CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK
AGENDA ITEM**

STAFF REPORT

ISSUE:

The Imperial Irrigation District ("IID") has requested that the State of California provide a loan guarantee in order to better assure that they can issue revenue bonds required to finance water conservation measures designed to ensure that California continues to receive the maximum amount of water from the Colorado River. Pursuant to the CIEDB enabling statute, including Government Code section 63060, the CIEDB has broad authority to provide loan guarantees. At the May 28, 2002, meeting of the CIEDB Board, Criteria, Priorities and Guidelines ("Criteria") were adopted for a potential Imperial Irrigation District Loan Guarantee. A Preliminary Loan Guarantee Application has been received from IID for a Preliminary Loan Guarantee Commitment. The application is consistent with the Criteria.

BACKGROUND

On April 29, 1998, IID and the San Diego County Water Authority ("SDCWA") entered into a 45-year water conservation and transfer agreement ("Transfer Agreement") for the transfer of up to 200,000 acre-feet per year of water supply to SDCWA based upon IID water conservation. The Metropolitan Water District of Southern California ("MWD") and the Coachella Valley Water District ("CVWD") challenged the IID/SDCWA transfer, resulting in Key Terms of a Quantification Settlement Agreement ("QSA"), which outlined a series of agreements to settle disputes and allow the Transfer Agreement to proceed ("QSA Agreements" and together with the Transfer Agreement, the "Agreements").

The parties to the QSA are historical users of Colorado River water; a resource relied upon by several states. California's use of Colorado River water will in the future be limited to a 4.4 million acre-foot annual apportionment, or up to 800,000 acre-feet less than California's historical use. In January 2001, the Secretary of the Interior adopted Interim Surplus Guidelines ("Guidelines") that would make available additional surplus Colorado River water to California for a period of 15 years to provide a "soft landing" for California to reduce its long-term use of Colorado River water to its basic 4.4 million acre-foot apportionment. Under the terms of the Guidelines, the additional surplus water is only available if the QSA Agreements were executed by December 31, 2002. This did not occur and the Secretary of the Interior suspended the special surplus criteria of the Guidelines. As a result, California could lose more than 620,000 acre-feet of Colorado River commencing this year unless the Guidelines are reinstated. Major reasons for the lack of approved QSA Agreements by the deadline included concerns about two early termination provisions contained therein and expected and potential

unexpected environmental mitigation costs associated with actions undertaken pursuant to the Agreements.

The first cause for early termination arises from the fact that the Agreements will be executed years before the completion of a Habitat Conservation Plan under federal law and a Natural Community Conservation Plan under State law (collectively, "Environmental Plans"). The funds pledged to implement the Environmental Plans exceed current estimates of the cost of the environmental mitigation, but unknown future costs of environmental mitigation could exceed the financial commitment of the parties to the Agreements. Therefore, the Agreements include an early termination provision if actual mitigation costs exceed those funds available to meet those costs.

The second cause for early termination involves negotiation of the transfer price. Pursuant to the Agreements, SDCWA is required to pay MWD for exchange of the water supply made available to SDCWA because of IID conservation measures ("Exchange Fee"). The parties have only negotiated the Exchange Fee for 35 out of 45-years in the term of the Agreements. If the Exchange Fee for the remaining years is above a contractually defined maximum, then the Agreements could terminate in 2037. SDCWA must give notice of its intent to exercise this early termination provision prior to 2017.

When it unanimously approved Assembly Concurrent Resolution No. 251 last Fall, the California Legislature recognized the importance of the successful implementation of the Agreements. The Legislature acknowledged that Colorado River water is oversubscribed and that, for many years, California's use has exceeded the State's annual apportionment of 4.4 million acre-feet. The Legislature further recognized that the proposed IID/SDCWA transfer is an integral part of California's plan to reduce its use of Colorado River water. The Legislature found that the potential loss of up to 800,000 acre-feet per year "would have a significant impact on California's economy, environment, and quality of life, and could force a greater reliance on water from the fragile ecosystem of the California Bay-Delta to make up the lost water."

Early termination would eliminate the contract revenues that IID and its landowners would rely upon to finance the water supply capital improvements constituting IID water conservation. The purpose of the proposed loan guarantee is to address these financial risks and enable IID to issue sufficient revenue bonds to finance the water supply project.

RECOMMENDATION

Staff recommends adoption of Resolution 03-18 which constitutes a Preliminary Loan Guarantee Commitment for the Imperial Irrigation District.

RESOLUTION NO. 03-18

RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK APPROVING A PRELIMINARY LOAN GUARANTEE COMMITMENT FOR THE IMPERIAL IRRIGATION DISTRICT

WHEREAS, the Imperial Irrigation District ("IID") and the San Diego County Water Authority ("SDCWA"), entered into a 45-year water conservation and transfer agreement ("Transfer Agreement") for the transfer of up to 200,000 acre-feet per year of water supply to SDCWA based upon IID water conservation, and subsequently, IID, SDCWA, the Metropolitan Water District of Southern California and the Coachella Valley Water District negotiated terms of a Quantification Settlement Agreement ("QSA") which describes a series of agreements regarding, *inter alia*, settlement of disputes among the parties arising from the Transfer Agreement ("QSA Agreements" and together with the Transfer Agreement, the "Agreements"); and

WHEREAS, the IID requires a loan guarantee in order to insure that they can issue revenue bonds required to finance a water supply project consisting of water conservation measures ("Project") needed to implement the Agreements and ensure that California continues to receive the maximum amount of water from the Colorado River; and

WHEREAS, pursuant to Resolution 03-16, adopted May 28, 2003 the CIEDB Board adopted criteria, priorities and guidelines ("Criteria") for a potential loan guarantee for the IID and committed \$20 million from the California Infrastructure and Economic Development Bank Fund to the California Infrastructure Guarantee Trust Fund ("Guarantee Trust Fund"), which is established pursuant to Government Code section 63060; and

WHEREAS, on May 13, 2003 the IID submitted to CIEDB a Preliminary Loan Guarantee Application ("Application") requesting a preliminary loan guarantee, attached hereto as Exhibit A; and

WHEREAS, Staff has determined that the Applicant-proposed preliminary loan guarantee and Project meet threshold eligibility requirements contained in Government Code Section 63000 *et seq.* ("Act") and the Criteria;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the California Infrastructure and Economic Development Banks, as follows:

Section 1. The Board hereby finds that the Application is consistent with the Criteria and the Act.

Section 2. The Board hereby approves a preliminary loan guarantee on the terms requested in the Application.

Section 3. This resolution, in combination with the Application, shall constitute the Preliminary Loan Guarantee Commitment.

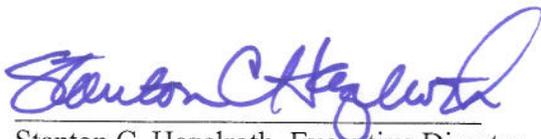
Section 4. The Executive Director is hereby authorized to transfer all funds in the Guarantee Trust Fund to a sub-account hereby established thereunder entitled the Imperial Irrigation District Infrastructure Guarantee Trust Account ("IID Guarantee Trust Account"). As long as either the Preliminary Loan Guarantee Commitment or a loan guarantee consistent with the Preliminary Loan Guarantee Commitment is in effect, funds in the IID Guarantee Trust Account shall be unconditionally pledged as described in those documents. Interest earnings on the IID Guarantee Trust Account shall remain within the IID Guarantee Trust Account, subject to the above-described pledge.

Section 5. This Preliminary Loan Guarantee Commitment shall expire on December 31, 2003 if the Agreements are not executed by that date. Upon execution of the Agreements, the Preliminary Loan Guarantee Commitment shall expire on December 31, 2009, unless extended in writing by the Board.

Section 6. This resolution shall take effect from and after its adoption.

PASSED, APPROVED, AND ADOPTED at a meeting of the Board of Directors of the California Infrastructure and Economic Development Bank on June 27, 2003, by the following vote:

AYES: HATAMIYA, LLOYD, LARSON
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE


Stanton C. Hazelroth, Executive Director

Attest:


Blake Fowler, Secretary



IMPERIAL IRRIGATION DISTRICT

GENERAL MANAGER'S OFFICE • P. O. BOX 937 • IMPERIAL, CA 92251

May 13, 2003

Mr. Stan Hazelroth
Chief Executive Officer
California Infrastructure and Economic Development Bank
1102 Q Street, Suite 6000
Sacramento, CA 95814

Dear Mr. Hazelroth:

The Imperial Irrigation District (IID) hereby submits a Preliminary Loan Guarantee Application to the California Infrastructure and Economic Development Bank in accordance with the Bank's Criteria, Priorities and Guidelines for the Proposed Imperial Irrigation District Loan Guarantee Program. This Preliminary Loan Guarantee Application includes: an adopted resolution of IID's governing body requesting a Preliminary Loan Guarantee Commitment; a finding acknowledging that the Loan Guarantee will be subject to the Terms and Conditions listed in Section D of the Criteria; and other information determined necessary by CIEDB's Executive Director.

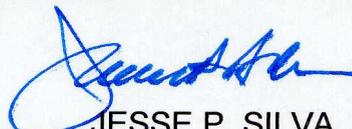
1. **Eligible Borrower.** IID is an irrigation district (special district) which meets the definition of "Sponsor" contained in Government Code Section 63010(u).
2. **Eligible Project.** The projects to be financed with Bond proceeds ("Project") will be consistent with the definition of "Public Development Facilities" contained in Government Code Sections 63010(p). Additionally, the Project shall be for the purpose of IID meeting its contractual obligations under the Agreements.
3. **Eligible Costs.** The costs of the Projects shall be consistent with the definition of "Cost" contained in Government Code Section 63010(f).
4. **Amount.** The amount of any individual Loan Guarantee shall be approved by adopted resolution of the Board. The maximum amount of all Loan Guarantees will not exceed an amount contained in the Guarantee Trust Account (see #12) and allowed by the Reserve Account Requirement (see #13).

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5. **Credit Rating Requirement.** Prior to the execution of a Loan Guarantee, IID will provide a letter from either Moody's Investor's Service, Standard & Poor's Ratings Service, or Fitch Ratings that the Bonds would be rated at least Baa1/BBB+/BBB+, respectively, if the early termination risk did not exist.
6. **Debt Service Reserve Fund.** The Bonds will have a debt service reserve fund funded at the maximum amount authorized under the Internal Revenue Code for tax-exempt debt.
7. **Amortization Pattern of Bonds.** The Bonds will be structured with level debt service unless specific exceptions are approved by the Board as part of the Loan Guarantee.
8. **Term of Bonds.** The term of the Bonds will not exceed 30 years.
9. **Fixed Rate.** The interest rate on the Bonds will be a fixed rate.
10. **IID Resolution.** IID's Loan Guarantee Application will contain a certified copy of the adopted resolution required by Government Code Section 63041(a).
11. **Prevailing Wages.** The Project will comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, including the payment of prevailing wages.

As you know, our objective is to obtain a standby financing commitment, consistent with the appropriate provisions of the Bergeson-Peace Infrastructure and Economic Development Bank Act, that will guarantee \$150,000,000 of net project costs. Thank you for your consideration.

Sincerely,



JESSE P. SILVA
General Manager

Attachment: Resolution

IMPERIAL IRRIGATION DISTRICT

RESOLUTION NO. 5-2003

OFFICIAL INTENT OF THE IMPERIAL IRRIGATION DISTRICT TO SUBMIT A PRELIMINARY LOAN GUARANTEE APPLICATION TO THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

WHEREAS, the Imperial Irrigation District (the "District") requires financial assistance in order to ensure that the District can issue revenue bonds required to finance a water supply project consisting of water conservation measures ("Project") designed to assure that California continues to receive the maximum amount of water from the Colorado River as well as for other purposes, and

WHEREAS, the District intends to obtain a Preliminary Loan Guarantee from the California Infrastructure and Economic Development Bank in accordance with the Bank's Criteria, Priorities and Guidelines for the Proposed Imperial Irrigation District Loan Program ("Bank's Criteria"); and

WHEREAS, the Bank's Criteria require an adopted resolution of the District's governing body requesting the Preliminary Loan Commitment; and

WHEREAS, the District acknowledges that the Loan Guarantee will be subject to the terms and conditions listed in Section D of the Bank's Criteria.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Imperial Irrigation District as follows:

Section 1. The Board of Directors of the District finds and determines that the foregoing recitals are true and correct.

Section 2. This resolution is adopted by the Board of Directors of the District for the purposes of establishing compliance with the Bank's Criteria.

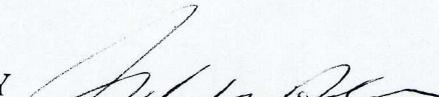
Section 3. This resolution shall take effect from and after its adoption.

PASSED AND ADOPTED this 13 day of May, 2003



IMPERIAL IRRIGATION DISTRICT

BY


President

BY


Secretary