

Why the county is in court

By ANTONIO ROSSMANN

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This paper is right: the County of Imperial and Imperial Irrigation District (IID) should be on the same side to prevent harm to the Valley from transferring water to greater Los Angeles and San Diego. We are in court against IID, though, because IID works against the county's claim that the urban water districts benefiting from the transfer, Metropolitan Water District and San Diego County Water Authority, underwrite the costs of preventing those harms.

Instead of supporting the county's resolve to prevent the Salton Sea from becoming the nation's worst public health air-quality hazard, IID consistently sides with its fellow water agencies to suppress the county's representation of its citizens. IID also perpetuates the myth that the county wants to upset the water transfer, when our consistently-stated goal remains to reform the present deal, not cast it aside. When it comes to water, IID's loyalties appear to run not to its own electorate, but to the urban water districts. Here water flows thicker than blood.

More specifically, the county is in court because after the water districts excluded the county from their negotiations, IID initiated a so-called validation proceeding that requires any objections to the massive realignment of Colorado River use to be litigated. The county and its air pollution control district then stated their claims. Once IID and its water allies realized the substantial questions raised by Imperial County and its air district, IID led the other water districts to prolong its litigation as long as possible, and confine the county's participation there. IID's "big tobacco" tactics produced the six-year delay, not the county; we were ready to try our claims in mid-2004. But the water districts, copying the playbook of the cigarette makers, are motivated by one goal: postpone judgment as long as possible, to avoid facing the merits of the county and air district claims.

The real tragedy would come if IID succeeded in enabling the urban water agencies' evasion of their environmental responsibilities. That is because IID's water transfer and quantification agreement will make Imperial Valley landowners responsible for environmental damage at the Salton Sea if the state does not pick up the tab – and the state Legislature and taxpayers are not rushing to that rescue. The county and its air district, in contrast, claim that the urban water districts, enriched by their new water supply, should bear the costs of protecting public health and avoiding the

harm that the transfer would bring to this Valley. Metropolitan, in particular, with a base of 18 million paying customers, boasts that it bears no responsibility for Imperial Valley impacts.

Why do IID and its attorneys work so hard against the Valley? In part, to defend their deal that has momentarily removed the threat of federal reallocation of the Colorado River on less favorable terms to IID's landowners. But a more constructive response to the federal threat asks the Interior Department to meet its obligations to avoid the health hazards its water reallocation would create — as the county and air district have done by restating in federal court their long-standing claim that Interior has violated the federal Clean Air Act.

A better understanding of IID's truculence, however, comes from its attorney's conjecture of the county's motivation: "to squeeze money and influence out of the IID so they can jump in and get a larger role in water matters." (IVP, 17 Oct 09} That guess is half-wrong: the county and air district do not want IID's resources, but Metropolitan's and San Diego's, to pay the transfer's costs. But the attorney is also half-right: Imperial County does want (and deserve) a larger role in water matters that affect the county's mandates and residents, and IID will do all it can to resist that.

Residents of this Valley look to the county, and not IID, for protection of their environment, economy and public health. In contrast, the resolve of IID's management and attorneys to keep the river to themselves places loyalty to their water brotherhood ahead of loyalty to the valley.

Thirty years ago in the Owens Valley the city of Los Angeles expressed the same attitude toward Inyo County, attacking the county for lacking water rights but daring to speak for its people and environment. Against those odds my law firm presented Inyo's legal claims until Los Angeles accepted the county as a worthy partner in Owens Valley water management and in so doing enhanced the security and reliability of its water rights. It is due and overdue for IID to reach that same level of maturity and recognize Imperial County as a collaborator to protect the Valley and its residents. While awaiting that inevitable day, however, the County of Imperial has no choice but to seek relief from the courts.

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