

Memorandum

To: Salton Sea Authority Board of Directors

From: G. Patrick O'Dowd, Executive Director /GM

Date: September 17, 2026

Re: Item B - Post-2026 Operational Guidelines: Salton Sea Impacts and Related Proceedings

1. Purpose and Recommendation

This memorandum follows the four components under Agenda Item B: the Bureau of Reclamation's treatment of Salton Sea impacts in Section 3.2.7 of the Post-2026 Final Environmental Impact Statement and Record of Decision; Nevada's challenge to the federal decision; the Authority's request for guidance from the State Water Resources Control Board; and the federal environmental questions presented to the United States Environmental Protection Agency. The Reclamation assessment also addresses two related developments bearing on the Final EIS rationale: the published portions of *Comité Cívico del Valle v. County of Imperial*, and International Boundary and Water Commission Minute 334.

Item B is primarily informational. Staff recommends that the Board receive and file the report and **authorize staff to distribute the attached letter to EPA Region 9 as drafted.**

2. Bureau of Reclamation FEIS and ROD Assessment of Salton Sea Impacts

Reclamation released the Final EIS on July 31, 2026. The Department of the Interior issued the Record of Decision and the operating guidelines for 2027 and 2028 on August 21, 2026, 21 days later. Those actions make the federal operating framework final for the first two-year interval. The precise distribution and mechanisms of Lower Basin conservation, and the resulting effects on deliveries and drainage reaching the Salton Sea, remain dependent on implementing agreements and later federal decisions. Any stated basinwide reduction should therefore not be understood as an entirely new reduction from current consumption; recent use already reflects substantial temporary system conservation.

Section 3.2.7 of the Final EIS, at pages 3-20 through 3-22, expressly states that analysis of impacts to the Salton Sea is not included. It nevertheless acknowledges the physical connection. The Sea acts as a terminal sump for agricultural drainage; reductions in agricultural runoff could affect Sea elevations, air quality, and shoreline wildlife habitat; and reductions in water available for diversion at Imperial Dam could, depending on the conservation activity and how it is implemented, reduce subsequent drainage to the Sea.

The Final EIS offers two principal reasons for excluding the analysis. First, it states that resulting impacts fall within the range of inflows already considered in the Salton Sea Management Program long-range plan and the U.S. Army Corps of Engineers' ongoing NEPA process, and that Post-2026 policies may accelerate impacts without changing their ultimate magnitude. The preceding sentence identifies that process as the Imperial Streams and Salton Sea Aquatic Ecosystem Restoration Feasibility Study and its associated NEPA compliance. It is not a reference to the Corps' separate, completed environmental review and permitting procedures for the SSMP 10-Year Plan. Second, the Final EIS states that Reclamation does not control the end use of water after delivery, that California oversees management of the Sea, and that Reclamation lacks management or enforcement authority over inputs to it. Appendix R principally carries forward the second rationale.

At page 3-23, the Draft EIS stated that a hypothetical pro rata allocation under the Enhanced Coordination Alternative would reduce deliveries to Imperial Irrigation District (IID) and Coachella Valley Water District by about 925,930 acre-feet, leave about 1.8 million acre-feet for diversion at Imperial Dam, and produce about 783,000 acre-feet of Salton Sea inflow. The Final EIS removed that calculation but retained the conclusion that potential effects remain within the inflow range considered by other planning processes. The issue is whether those processes will adequately address the selected federal action, particularly if adverse conditions precede funded mitigation.

The Record of Decision states that Reclamation will review each later two-year operational interval and determine the environmental compliance needed for implementation. That commitment does not require a new environmental impact statement, reopen the adequacy of the 2026 Final EIS, or ensure that later review will include Salton Sea impacts. The Authority should therefore preserve the distinction between future review of later operating decisions and the unresolved treatment of the decision already made.

The Authority placed the underlying Salton Sea impact issues in the federal record through comments dated August 15, 2023, February 27, 2026, and August 17, 2026.

The Final EIS revised Reclamation's description of the boundary of its authority. The Draft EIS stated that Reclamation did not control the end use and management of delivered or conserved water; the Final EIS stated that Reclamation does not manage or control the end use of water after the point of delivery. Staff prepared and internally reviewed a supplemental submission asking Reclamation to explain that revision and reconcile it with Section 5 water-delivery contracts, 43 C.F.R. pt. 417, and Interior's independent responsibilities concerning federal lands, the Sonny Bono Salton Sea National Wildlife Refuge, air quality, and Tribal trust interests. The draft was ready for transmission on Monday, August 24, but the Record of Decision issued on Friday, August 21, foreclosing transmission.

The record supports a restrained conclusion: the physical connection was known and acknowledged, the impact analysis was excluded, and responsibility for accounting for the resulting consequences remains unresolved.

Comité Cívico del Valle

The County's environmental review record establishes two facts that bear directly on the federal treatment. The project's final water supply assessment stated that, given Colorado River conditions and communications from the Department of the Interior, reductions to all Basin contractors, including IID, were increasingly likely. The County also acknowledged that the shrinking Salton Sea is the main contributor to poor air quality because of exposed playa and that public comments linked the project's water use to reduced drainage reaching the Sea. The County therefore recognized both the foreseeable federal supply risk and the physical relationship between reduced drainage, exposed playa, and poor air quality.

The Court of Appeal held that uncertainty about the amount or duration of federally mandated cutbacks did not make their effects too speculative to analyze. It further concluded that redirecting conserved agricultural water to the project would necessarily reduce drainage to the Salton Sea, expand exposed playa, and likely worsen air quality. That ruling is contrary to the treatment in Section 3.2.7. Reclamation acknowledged the same causal pathway but excluded the effects from analysis and relied instead on other planning processes and its stated lack of control over water after delivery. The California decision does not govern the federal review, but it rejects uncertainty and later planning as reasons to leave that causal pathway unanalyzed.

Minute 334 and Mexico

The federal treatment of Mexico provides a second comparison. Appendix N of the Final EIS evaluated assumed reductions in deliveries to Mexico, salinity at the Northerly International Boundary, and flows in the shared Limitrophe reach. It acknowledged that the amount of water delivered to habitat sites dependent on Mexico's diversion system would be affected to some extent by total deliveries. The analysis was nevertheless limited: effects within Mexico downstream of the shared reach were outside the EIS scope, and effects on riparian vegetation and habitat were not explicitly modeled.

That uncertainty did not prevent the United States and Mexico from adopting an implementation arrangement. Minute 334, signed September 2, 2026, couples the 2027 and 2028 operating reductions with defined environmental work. The United States and Mexico will each provide \$1,859,761, one-third of the \$5,579,283 total, to maintain existing habitat-restoration sites and support scientific research and monitoring. A binational coalition of nongovernmental organizations pledged the remaining third and will provide the water needed to maintain the sites. Funding and associated work must be reported to the

Commission, and the Binational Environmental Work Group will plan, verify, and report on the habitat, monitoring, and water-delivery activities.

Minute 334 is relevant as evidence of institutional practice. It shows that operating reductions can be paired with environmental funding, water, monitoring, implementation, and reporting even when ecological effects have not been comprehensively modeled. Resolution 12 provides that the Minute “shall not be regarded as a precedent for developing further necessary implementing agreements within the United States.” Resolution 14 also makes all activities subject to the availability of funds, resources, personnel, and applicable law. The Minute does not mention the Salton Sea or determine federal obligations there, but the domestic-precedent disclaimer shows that the parties addressed the arrangement’s precedential effect within the United States.

The institutional contrast is direct. For Mexico, incomplete analysis did not prevent an implementation arrangement. For the Salton Sea, Reclamation cited uncertainty, downstream discretion, the point of delivery, and the feasibility study in explaining why impacts were not analyzed. The study provides no federal commitment to assess Post-2026 impacts prospectively or mitigate them as they occur, and neither the Final EIS nor the Record of Decision identifies funding to complete the study or implement its recommendations.

3. Nevada Lawsuit

On August 24, 2026, the State of Nevada, the Colorado River Commission of Nevada, and the Southern Nevada Water Authority filed State of Nevada v. Burgum, No. 2:26-cv-02665, challenging the Record of Decision, Final EIS, and 2027-2028 guidelines. Its principal significance for the Authority lies in NEPA claims that independently echo objections the Authority placed in the federal record before the decision.

Nevada alleges that Reclamation failed to analyze reasonable alternatives and environmental, public-health, safety, and socioeconomic effects; evaluate mitigation; respond adequately to substantive comments; improperly deferred or segmented analysis through later processes; and failed to invite appropriate state, regional, and local cooperating agencies under 42 U.S.C. § 4336a(a)(2)(B). Those allegations parallel the Authority’s comments that Reclamation excluded foreseeable Salton Sea effects from substantive analysis, substituted the SSMP and Corps processes for that analysis, and left mitigation responsibility unresolved. The Authority raised those concerns in its August 15, 2023 scoping comments, February 27, 2026 Draft EIS comments, and August 17, 2026 Final EIS submission.

The overlap is methodological and procedural. Nevada’s complaint concerns Nevada and does not mention the Salton Sea or seek a determination of responsibility for its impacts.

Nevada's asserted 213,556 acre-foot reduction and its other claims are allegations, not court findings. The Authority takes no position on Nevada's allocation or Law of the River claims and will monitor whether the litigation affects the federal decision while preserving its distinct environmental concerns.

4. State Water Resources Control Board

On August 31, 2026, the Authority asked State Water Resources Control Board Chair E. Joaquin Esquivel what role the Water Board has in ensuring that effects on the health, safety, and environment of Salton Sea communities are identified, quantified, assigned, and appropriately mitigated before additional Post-2026 Colorado River conservation is implemented in California. The request is timely because federal operating rules are final for 2027 and 2028, while the Final EIS excluded Salton Sea impact analysis. It also invokes Condition 29 of WR 2017-0134, which reserves jurisdiction to amend Conditions 19 through 28 as necessary to ensure Salton Sea restoration throughout the term of the QSA.

The request does not ask the Water Board to allocate Colorado River shortages, prejudice a future water-right proceeding, or adjudicate federal responsibility, and it does not concede that federal responsibility may be satisfied through a State process. No substantive response had been received when this memorandum was prepared. Staff will report orally on any update received before the meeting.

5. Environmental Protection Agency

EPA Region 9 made recommendations directly relevant to the Salton Sea during the federal review. Its August 15, 2023 formal scoping comments asked Reclamation to analyze air quality, water-resource, and other environmental effects of changes in water management or deliveries, including in the Salton Sea region. EPA specifically requested a robust analysis of public-health and safety effects from operational changes reducing deliveries to the region and asked to serve as a cooperating agency. In April 2024, EPA again recommended identification of dust-control problem areas and coordination with federal, State, Tribal, and local partners on dust-management plans.

EPA's March 3, 2026 review letter stated that EPA had no further comments on the Draft EIS, but attributed its scoping comments to a September 1, 2022 pre-scoping submission that did not contain the later Salton Sea air quality and public-health recommendation. EPA is not among the five cooperating agencies listed in the Final EIS or Record of Decision. The Final EIS stated that Salton Sea impact analysis was not included.

Staff has prepared, but has not distributed, the attached letter requesting clarification from EPA Region 9. Its nine questions fall into four groups:

- **Prior recommendations.** Whether EPA considers its August 15, 2023 Salton Sea recommendations addressed, which submission EPA reviewed before stating it had no further comments, and whether that conclusion remains after issuance of the Final EIS and Record of Decision.
- **Participation and record.** Whether EPA reviewed or communicated about the Final EIS, how Reclamation responded to EPA's request for cooperating-agency status, and what communications document EPA's participation.
- **Air quality analysis.** Whether the Final EIS's screening analysis of dust from fallowed agricultural land responds to EPA's separate concern about exposed Salton Sea playa and associated particulate emissions.
- **Clean Air Act implementation.** Whether General Conformity was considered, when air agencies should be consulted, and whether EPA considers further action under Section 309 of the Clean Air Act warranted.

The letter preserves the Authority's neutrality on allocation among Basin States and California contractors and does not speak for the Torres Martinez Desert Cahuilla Indians or limit any Tribe's separate rights or consultation requests. Staff requests Board authorization to distribute the attached letter as drafted.

6. Recommended Board Action

Staff recommends that the Board:

- **Receive and file.** Receive and file this report.
- **EPA correspondence.** Authorize staff to distribute the attached letter to the United States Environmental Protection Agency, Region 9, as drafted.

Attachments and Principal References

- **Attachment A.** Comité Cívico del Valle v. County of Imperial, No. D085747, partially published opinion filed August 11, 2026, and publication order filed September 2, 2026, particularly published Parts III.B.4, III.B.5, and III.D.
- **Attachment B.** International Boundary and Water Commission Minute 334, Colorado River Basin Cooperative Measures Through December 31, 2028, signed September 2, 2026, particularly Section VII and Resolutions 6, 12, and 14.
- **Attachment C.** Authority letter to State Water Resources Control Board Chair E. Joaquin Esquivel, August 31, 2026, and transmittal email of the same date.
- **Attachment D.** Proposed Authority letter to EPA Region 9 requesting clarification concerning the Post-2026 federal environmental review.
- **Federal decision.** Post-2026 Colorado River Reservoir Operations Final Environmental Impact Statement, July 31, 2026, Section 3.2.7 and Appendices N and R; Record of Decision and 2027-2028 Operating Guidelines, August 21, 2026.
- **Nevada litigation.** Complaint, State of Nevada v. Burgum, No. 2:26-cv-02665 (D. Nev., filed August 24, 2026).
- **EPA record.** EPA Region 9 correspondence dated September 1, 2022, August 15, 2023, April 8, 2024, and March 3, 2026.
- **Authority record.** Authority submissions to Reclamation dated August 15, 2023, February 27, 2026, and August 17, 2026.