

# *Salton Sea Authority Formation and Legislative History*



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## *Executive Summary*

The Salton Sea Authority (SSA) is a Joint Powers Authority formed in early 1990s to lead a collaborative effort to address challenges at the Sea. As articulated in the foundational documents of the JPA, the purpose of the SSA is:

“to ensure continued beneficial uses of Salton Sea, including its primary purpose as a depository for agricultural drainage, storm-water and wastewater flows, together with protection for endangered species, fisheries, water fowl, and recreation.”

At the time of its creation, the principle concern was rising salinity concentration impacting the ecology of the Sea and the Pacific Flyway. The SSA was funded largely by the federal government and completed a number of pilot projects.

In the early 2000s, the SSA participated forcefully in the State Water Resource Control Board QSA hearings to insist that the state accept responsibility for restoring and mitigating impacts to the Sea. The original QSA agreements largely ignored the Sea. In the subsequent QSA agreements and accompanying legislation, the State took ultimate responsibility for mitigating impacts to the Sea resulting from the QSA.

In the mid-2000s as the state prepared its restoration plan, the SSA developed and advocated for a comprehensive solution. The state’s effort resulted in a plan that was considered infeasible, and the state’s interest in the Sea waned. The SSA continued to lobby for a comprehensive solution. In the early 2010s, the SSA pushed hard to re-engage the state. A turning point came in legislation authored by Assemblyman Perez when the SSA was named to conduct a comprehensive feasibility analysis “in cooperation and consultation” with the state. The SSA’s analysis, completed on time and under budget, served as the foundation for the state’s Salton Sea Management Plan and the current subset of projects known as the 10 Year Plan.

In addition to participation in developing the state’s 10-year plan, the SSA has completed important wetlands projects. SSA served as lead agency in partnership with the Torres Martinez Tribe to deliver – yet again, on time and within budget -- the first state-funded project ever to become fully functional at the sea.

The primary goal of SSA has been to develop consensus among its member agencies for a shared vision for the Sea and to forge a cohesive local voice for revitalization of the Sea in concert with state and federal partners. Experience has shown that unless the local entities speak with one voice, they are largely ignored individually. Outside agencies use the lack of agreement among the locals as an excuse to avoid commitment of resources needed to accomplish progress at the Sea.

The SSA Board of Directors recognized that it is incumbent upon the members of the SSA to Assert Local Leadership (Principle #1 in the SSA board-adopted “Guiding Principles”) in order to define and achieve consensus supporting a comprehensive vision of a revitalized Salton Sea in terms that respect local priorities.

The SSA and its partners have achieved historic consensus on the start of a comprehensive vision for the Sea – a 10 Year Plan with real projects that are designed and permitted, with enough funding to begin construction. There is yet additional consensus on the fact that this long-awaited start is at last a credible start but by no means a final plan; and that the SSA must continue to engage in principled discussion to define its purpose, role and responsibilities in leading progress at the Salton Sea.

### ***Salton Sea historical events predating the (SSA):***

- **700 A.D.:** Lake Cahuilla arises in the Salton Sink when the Colorado River silts up its normal egress to the Gulf of California and swings northward through two overflow channels. Lake is subjected to wet and dry climatic cycles over intervening years, filling up and drying out four times.
- **1774:** Spanish make first contact with the Cahuilla people, ancestors of present day Torres Martinez Desert Cahuilla Indians. There are 6,000 members of the tribe.
- **1840:** Colorado River flooding recorded to the Salton Sink. New River possibly formed at this time.
- **1849:** ‘49ers begin crossing Imperial Valley on their way to California gold fields, crossing the mountains via Carriso Creek and Warner’s Hot Springs.
- **1853:** Imperial Valley recognized as potential desert “garden spot” if it can be adequately irrigated.
- **1876:** U.S. Government establishes Torres Martinez Desert Cahuilla Indian Reservation with a grant of 640 acres.
- **1891:** 20,000 acres of land on the northern side of the Salton Sink are withdrawn from public use for the Torres Martinez Band of Desert Cahuilla Indians.
- **1901:** Imperial Canal brings water from the Colorado River to the Imperial Valley.
- **1904:** Silt blocks the Imperial Canal preventing it from supplying water to the Imperial Valley.
- **1905:** Temporary diversion of the Colorado River, constructed to replace water from the blocked canal, is breached by floodwaters. River changes course and flows into Salton Sink.

- **1907:** Floodwaters continue to fill Salton Sea until in February Southern Pacific Railroad closes the river breach.
- **1909:** Thinking the Salton Sea would be gone by the 1920s, the U.S. Government reserves in trust an additional 10,000 acres of land under the sea for the benefit of the Torres Martinez Band.
- **1911:** Imperial Irrigation District formed; discussions begin promoting a new canal to supply water to the Valley.
- **1924:** President Coolidge issues an executive order setting aside lands under the Salton Sea as a permanent drainage reservoir.
- **1928:** Congress authorizes construction of Boulder Dam and the All-American Canal that will result in control of the Colorado and elimination of flooding.
- **1930:** Salton Sea Wildlife Refuge established for protection of ducks, geese and shore birds under Executive Order 5498 (President Hoover).
- **1942:** The All-American Canal begins supplying water to Imperial Valley.
- **1948:** The Coachella branch of the canal begins carrying water to Coachella Valley.
- **1955:** Salton Sea State Park dedicated; at the time the second largest state park in California.
- **1958:** M. Penn Phillips Co., a subsidiary of Holly Corp., maps out a community on the West Shore of Salton Sea, calling it Salton City.
- **1960:** North Shore Beach and Yacht Club Estates opened on North side of Sea.
- **1961:** The California Department of Fish and Game predicts the Salton Sea will eventually die because of increasing salinity levels by 1980 or 1990.
- **1976:** California Constitution Article X, Section 2 added stating “Water resources of the State be put to beneficial use to the fullest extent of which they are capable.”
- **1976:** Tropical storm Kathleen sweeps through Imperial Valley, flooding farmland and increasing level of Salton Sea. Above average rainfall for the next seven years, along with increased agricultural runoff and increased flows from Mexico, cause flooding of shoreline resorts.

- **1977:** Tropical storm Doreen sweeps through Imperial Valley, the second “100-year storm” in two years.
- **1984:** State Water Resources Control Board determined (Decision 1600) water loss could be prevented through reasonable conservation measures; IID developed comprehensive water conservation plan
- **1988:** State Water Resources Control Board set a long-term conservation goal at 367,900 AF (WRO 88-20), endorsed the idea of conserved water transfer from IID to MWD, and acknowledged unavoidable adverse impacts to the Salton Sea
- **1988:** Salton Sea Task Force formed. It is the forerunner of the Salton Sea Authority, consisting of representatives from local government agencies.
- **1992:** 150,000 eared grebes die on Salton Sea, capturing national attention. Congress then passed the Reclamation Projects Authorization and Adjustment Act (Public Law 102-575) which directed the Secretary of the Interior to “conduct a research project for the development of a method or combination of methods to reduce and control salinity, provide endangered species habitat, enhance fisheries, and protect human recreational values at the Salton Sea.”

***(1993) Salton Sea Authority formed in a joint powers agreement among the counties of Riverside and Imperial as well as the Coachella Valley Water District and the Imperial Irrigation District.***

- **Purpose of SSA written in the (JPA):** The purpose of the Agreement is to create a public agency to exercise the common power of directing and coordinating actions relating to improvement of water quality and stabilization of water elevation and to enhance recreational and economic development potential of the Salton Sea and other beneficial uses, recognizing the importance of the Salton Sea for the continuation of the dynamic agricultural economy in Imperial and Riverside Counties. *(JPA agreement at the end of the binder for reference)*
- **[SB 223 \(Kelley\) 1999 “Infrastructure financing: Salton Sea Authority” Chapter 59:](#)** This bill authorizes the Salton Sea Authority, a joint powers authority, to utilize this law to form an infrastructure financing district to fund the construction of, and purchasing electrical power for, projects for the reclamation and environmental restoration of the Salton Sea.

Section 53395.9 is added to the Government Code, to read:

(a) The Salton Sea Authority, a joint powers authority formed by the County of Imperial, the County of Riverside, the Coachella Valley Water District, and the Imperial Irrigation District, may use the provisions of this chapter to form an infrastructure financing district for the purpose of funding the construction of, and purchasing electrical power for, projects for the reclamation and environmental restoration of the Salton Sea. To the extent of any conflict, the provisions of this section shall prevail over any other provision of law. Any district formed pursuant to this section shall be known as “The Salton Sea Infrastructure Financing District.”

(b) For purposes of this chapter, the Salton Sea Authority is a “city.”

(c) The Salton Sea Infrastructure Financing District may exist for up to 40 years from the date of its formation.

(d) No public funds accruing to the Salton Sea Authority pursuant to this section shall be utilized for purposes of treating or making potable, agricultural tailwaters flowing into the Salton Sea.

- **[AB 959 \(Kelley\) 2002 “Joint powers agreements: Salton Sea Authority” Chapter 19:](#)** This bill authorizes the Torres Martinez Desert Cahuilla Indians to enter into a joint powers agreement to participate in the Salton Sea Authority. The bill also provides that on and after January 1, 2002, the Authority shall not have the power to authorize or issue bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985 unless the funded public improvements will be owned and maintained by the Authority or one or more public agency members and the revenue streams pledged to repay the bonds derive from the authority or one or more of its public agency members.
- **[AB 71 \(Perez\) 2013 “Salton Sea Restoration” Chapter 402:](#)** This bill requires the Secretary of the Natural Resources Agency, in consultation and coordination with the Salton Sea Authority, to lead Salton Sea restoration efforts. This bill authorizes the Authority to lead a restoration funding and feasibility study, in consultation with the agency, as prescribed. This bill also requires the secretary to seek input from the Authority with regard to specified components of restoration of the Salton Sea.
- **[\(2014\) MOU between Dept. of Interior and \(SSA\):](#)** Through this MOU DOI and SSA committed to sharing available technical and scientific information and expertise, for the purpose of collaboration in connection with actions affecting resources at the Sea, and identification of opportunities for practical and implementable projects for mitigation and improvement of conditions in and around the Sea.
- **[S. 612 \(Cornyn\) 2016 “WIIN Act” Public Law No: 114-322:](#)** Maintained (WRDA) 2007 funding authorization for the Sea, and specifically designated the SSA as a

preferred partner for the funding agreements to be established with the Army Corps of Engineers.

### ***Other Legislation and Agreements of Importance to the Salton Sea:***

- **The Salton Sea Reclamation Act of 1998 (Public Law 105-372):** Directed the Secretary of the Interior, through Reclamation, to study options for managing the salinity and elevation of the Sea to preserve fish and wildlife health and to enhance opportunities for recreation use and economic development while continuing the Sea's use as a reservoir for irrigation drainage. Reporting requirements of the Act were met in January 2000, when the Department forwarded a draft EIS/EIR and several other reports to Congress.
- **Prop 50: The California Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002:** Under SB 71: Resources Chapter 81 (2005), bill requires that \$12,000,000 be made available from that continuously appropriated fund (Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002) for transfer or direct expenditure for acquisition, grants, or other activities that directly restore the Salton Sea and its transboundary watersheds.
- **Quantification Settlement Agreement (2003):** After prolonged negotiations between the federal government and the water districts that have a right to Colorado River water within the state, a series of agreements were made between the federal government, the State of California, the Imperial Irrigation District (IID), Metropolitan Water District of Southern California (MWD, the Coachella Valley Water District, and the San Diego County Water Authority. These agreements are known collectively as the Quantification Settlement Agreement (QSA). Under the QSA and in conjunction with laws enacted by the Legislature, the various users of Colorado River water within the state agreed to reduce their use to the allowed 4.4 million acre-feet per year over several years. The agreements include a water transfer between IID and other Southern California water districts of up to 300,000 acre-feet per year for at least 35 years and the lining of the All-American Canal to save an estimated 77,000 acre-feet per year. By transferring water out of the Imperial Valley, the QSA water transfer will reduce the amount of water available for agricultural use in the Valley. In turn, this will reduce the amount of water flowing into the Sea—further increasing salinity and causing the Sea’s shoreline to recede.
- **Legislation enacted in order to facilitate the implementation of the Quantification Settlement Agreement (QSA):**
  - **SB 277: 2003 (Ducheny) Chapter 611:** Provides that the “Preferred Alternative” (the designated plan for restoring the Salton Sea) developed by the Secretary for

Resources provide the maximum feasible attainment of: (1) the restoration of the long-term stable aquatic and shoreline habitat for the historic levels and diversity of fish and wildlife that depend on the Sea, (2) the elimination of air quality impacts from the restoration project, and (3) the protection of water quality.

Creates the Salton Sea Restoration Fund (with various potential sources of money for the fund).

Allows the Department of Water Resources to engage in future water transfers to achieve the goals of the restoration.

Requires the Department of Food and Agriculture to report on the third-party impacts of the water transfer between Imperial Irrigation District (IID) and the San Diego County Water Authority.

- **SB 317: 2003 (Kuehl) Chapter 612:** Allows the Department of Fish and Game to authorize the “incidental take” of fully protected species resulting from the impacts of the QSA, including the water transfer.

Allows for two additional water transfers from IID to the Metropolitan Water District of Southern California (Met) of 800,000 acre-feet each, the proceeds of which would go towards the restoration effort (often referred to as the “(c)(1)” and “(c)(2)” water).

Requires the Secretary for Resources to develop a Preferred Alternative, in consultation with the appropriate state agencies, local agencies, and the Advisory Committee. The study shall be submitted to the Legislature by December 2006. (The Preferred Alternative was submitted by the Secretary to the Legislature in May 2007.)

Relieves IID of any liability from reduced inflows to the Sea due to any required water conservation efforts.

Establishes an ecosystem restoration fee to be assessed on any future, non-QSA related water transfers out of IID’s service area.

- **SB 654: 2003 (Machado) Chapter 613:** Extends the time to spend a prior-year appropriation of \$235 million for the lining of the All-American Canal (including the Coachella Branch) and groundwater recharge projects, with the conserved water going to Metropolitan Water District.



Creates a joint powers authority with the Department of Fish and Game and several local agencies in order to finance environmental mitigation costs relating to the QSA.

Requires that costs up to \$133 million for mitigation of negative impacts of the QSA water transfer shall be paid by IID, Coachella Valley Water District, and the San Diego County Water Authority and that \$30 million shall be paid by the same agencies to the Salton Sea Restoration Fund. No further funding requirements for the restoration of the Sea by these agencies is required and all future costs to mitigate the impacts of the water transfer and restore the Sea shall be the state's responsibility.

- **SB 1214: 2004 (Kuehl) Chapter 614:** Requires that the financing plan developed by the Secretary for Resources consider funds that are, or may be available, including the Salton Sea Restoration Fund, bond funds, federal funds, money available from an infrastructure financing district, and user or other fees.

Directs the Secretary for Resources to assess the protection of recreational opportunities and the creation of improved local economic conditions surrounding the Sea. However, recreation and economic development would not be considered restoration goals on par with the previously stated goals of wildlife habitat, air quality, and water quality protection.

Broadens the scope of the restoration plan to include the agricultural lands surrounding the Sea and the tributaries and drains that provide water to the Sea.

- **H.R.2828: 2004 (Calvert) Water Supply, Reliability, and Environmental Improvement Act, Public Law No: 108-361:** (Sec. 201) Directs the Secretary of the Interior, by December 31, 2006, in coordination with the State and the Salton Sea Authority, to complete a feasibility study on a preferred alternative for Salton Sea restoration.
- **H.R.1495: 2007 (Oberstar) Water Resources Development Act of 2007, Public Law No: 110-114: (Sec. 3032):** \$30 million in federal funding for Salton Sea restoration authorized for appropriations, for pilot projects at the Sea. \$5 million max for each project. Before carrying out a pilot project under this section, the Secretary of the Interior shall enter into a written agreement with the State that requires the non-Federal interest for the pilot project to pay 35 percent of the total costs of the pilot project. No appropriations were ever made through this WRDA provision, but Congress re-authorized this in 2016 under the WIIN Act, while also designating the Salton Sea Authority as the preferred non-federal partner.

- **Prop 84: The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006:** Proposition 84 funds are deposited into SSRF (Salton Sea Restoration Fund) and are being used for a number of different things that involve the Salton Sea. To date the State declares in their SSMP 10-year plan that approximately \$21 million has been received from Prop 84.
- **SB 51: 2010 (Ducheny) “Salton Sea Restoration Council” Chapter 303:** This bill establishes the Salton Sea Restoration Council as a state agency in the Natural Resources Agency to oversee the restoration of the Salton Sea. For the purpose of developing a restoration plan, the bill requires the council to evaluate Salton Sea restoration plans and, by June 30, 2013, report to the Governor and the Legislature with a recommended Salton Sea restoration plan.

The bill prescribes requirements relating to the composition and administration of the council. The council is required to include an executive committee, a science committee, a local government forum, and a stakeholder forum, as specified. The executive committee is required to serve as the governing body of the council and provide guidance and oversight on behalf of the restoration program.

The bill also requires the Department of Fish and Game and the Department of Water Resources to implement specified activities relating to the restoration of the Salton Sea. The bill requires the Department of Fish and Game and the Department of Water Resources to provide staff services that the council requires to carry out its activities and requires the directors of these departments to enter into interagency agreements with other state agencies to provide staff services.

The Salton Sea Restoration Council never met and was later abolished by Governor Jerry Brown. Governance of the Salton Sea restoration activities was subsequently defined by AB 71 (Perez) which requires the Secretary of the Natural Resources Agency, in consultation and coordination with the Salton Sea Authority, to lead Salton Sea restoration efforts.

- **2014 California State Water Bond (Proposition 1):** \$80.5 million of this water bond was allocated in the 2016 governor’s budget for projects at the Salton Sea.
- **AB 1095: 2015 (Garcia) “Salton Sea: restoration projects” Chapter 722:** This billed required that, on or before March 31, 2016, the Natural Resources Agency to submit to the Legislature a list of shovel-ready, as defined, Salton Sea restoration projects, including information regarding project costs and project completion timelines.

Not only did this lead to that submittal of shovel ready projects, it also prompted Governor Edmund G. Brown Jr.’s Salton Sea Task Force, created in May 2015, which has directed agencies to develop a comprehensive management plan for the Sea that will:

- Meet a short-term goal of 9,000 acres to 12,000 acres of habitat and dust suppression projects, and
  - Set a medium-term plan to construct 18,000 acres to 25,000 acres of habitat and dust suppression projects.
- **(2016) MOU between Dept. of Interior and California Natural Resources Agency:** Through this MOU the DOI and CNRA recognize the unique roles of the tribes around the Salton Sea as well as the local governments, non-profits, philanthropic, and academic institutions as having jurisdiction, resources, decision making roles, and common interests at the Sea, and will be essential to include in consultation and coordination with any plans affecting the Sea.

The MOU also pledges from the DOI: \$20 million to operation and maintenance with the SSMP, \$10 million for state managed monitoring of SSMP projects, USGS scientific and technical support and input, as well as consideration of a pilot project under phase 2 of the Colorado River Basin Study to continue the ongoing innovative and collaborative efforts underway at the Sea to increase security for California's Colorado River water supplies, consistent with DOI's efforts to increase security for other Basin States' water supplies.

- **SB 1416: 2016 (Stone) "Voluntary contribution: Revive the Salton Sea Fund" Chapter 219:** Created a Revive the Salton Sea Fund allowing voluntary designation of personal income tax refunds to be deposited in the Revive the Salton Sea Fund. Contributions will be allocated to the Natural Resources Agency for distributions of competitive grants to provide funds or supplement funding of the state, county and local agencies, nonprofit, and projects identified as necessary for the restoration and maintenance of the Salton Sea and to develop a mechanism to provide ongoing public awareness, as specified.

The contributions to the fund shall be used for the following items: (1) Programs to create statewide public awareness and grassroots support for the restoration of the Salton Sea. (2) Programs to engage the public through promotion and education about the Salton Sea. (3) Current and future projects identified as necessary for restoration and maintenance of the Salton Sea, including projects identified by the Salton Sea Authority.

- **SB 839: 2016 "Public resources" Chapter 340:** Authorizes the Department of Water Resources to use design-build procurement for projects at the Salton Sea. Design build authorization means that the Department of Water Resources would be able to utilize a single contractor who would then themselves contract with the designer and builder at the beginning of the process.

- **SB 615: 2017 (Hueso) “Salton Sea restoration” Chapter 859:** This bill specifies that any barrier in the Salton Sea within or below a certain elevation would not be considered a dam and would provide that the construction of facilities to separate fresh water from highly saline water for the purposes of implementing restoration activities pursuant to the act shall not be subject to review, approval, inspection, or fees associated with certain laws relating to dams and reservoirs.

The bill also renames the state’s comprehensive management plan for the Salton Sea the “John J. Benoit Salton Sea Restoration Plan,” and would recognize the State Water Resources Control Board’s role in the restoration of the Salton Sea.

- **(2017) State Water Resources Control Board agreement (WRO 2002-0013):** The agreement, initiated by Imperial Irrigation District, Imperial County, and San Diego County Water Authority, brings greater assurance of state commitment to live up to its responsibilities under previously negotiated water transfer agreements and state law. The new agreement lays out specific yearly acreage goals for the state’s Salton Sea Management Program (SSMP) as well as defining the State Board’s oversight role in the process. The (WRO 2002-0013) also calls for the development of a long-term plan for the Sea by at least 2022.

- **SB 5: 2017 (De Leon) California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018, (Subsequently designated as Proposition 68 for the June 5, 2018 statewide ballot):** SB- 5 authorizes the issuance of \$4 billion in State General Obligation bonds to finance parks, water, climate adaptation, coastal protection, and outdoor access programs. This bond provides \$200 million to be available to the Natural Resources Agency for implementation of projects at the Salton Sea.

Of note for the SSA this bond specifically provides \$30 million to the Salton Sea Authority. Of this amount, not less than \$10 million shall be available for purposes consistent with the New River Water Quality, Public Health, and River Parkway Development Program. Also, of note this bond would make available \$170 million to the Natural Resources Agency for restoration activities identified in the Salton Sea Management Program Phase I: 10 Year Plan.

California voters pass Proposition 68 on the June 2018 primary ballot.

- USDA Farm bill, modified SSA coalition-supported provisions that align eligibility criteria for projects at the Sea with funding resources approaching \$5 Billion nationwide. The Farm bill is passed by both houses and signed into law in December 2018 -- same day as US Bureau of Reclamation announces January deadline for all parties to adopt the Colorado River Drought Contingency Plan. The Farm bill provides a funding mechanism for DOI to fulfill federal commitments at the Salton Sea, if the federal agencies will

coordinate with each other in partnership with the state of California and Salton Sea Authority.

- Salton Sea Authority board of directors adopts Resolution in Recognition of Historic Local Unity in support of Perimeter Lake. The Perimeter Lake concept is proposed a series of connected levees parallel to the shoreline, impounding a portion of ag drain water sufficient to cover dusty playa, restore riparian habitat and revitalize economic activity for renewable energy and recreation. In addition to SSA, the concept is supported by both counties, IID, CVWD, Torres Martinez tribe, all cities in both Coachella and Imperial County as well as all tribes and Coachella Valley Association of Governments and Salton Sea Action Committee.