



AGENDA STAFF REPORT

DATE: December 19, 2018

TO: Mayor and City Council

APPROVED BY: David B. Dale, City Manager *DD*

PREPARED BY: David B. Dale, City Manager

SUBJECT: Approval of a Resolution of the City Council of the City of Calexico Supporting and Joining the Amicus Brief to be Filed by the Imperial Valley Coalition for Fair Sharing of Water in the Abatti v. Imperial Irrigation District Litigation

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Recommendation:

Approval of Resolution supporting and joining the Amicus Brief to be filed by the Imperial Valley Coalition for Fair Sharing of Water in the Abatti v. Imperial Irrigation District Litigation.

Background:

On September 19, 2018 Mr. Wally Leimgruber, Mr. John Pierre Menvielle and Ms. Heidi Rodriguez addressed the Council on behalf of the Imperial Valley Coalition for Fair Sharing of Water to request support for the Amicus Brief regarding the Abatti v. Imperial Irrigation District Litigation.

Discussion & Analysis:

The Imperial Irrigation District (the "District" or "IID") is a California irrigation district established and governed by California statutory provisions generally found in the Water Code. IID provides domestic and other water (including Colorado River Water) to the City and its residents and businesses. The recent Imperial County Superior Court decision in Michael Abatti v. Imperial Irrigation District raises substantial and serious factual and legal questions regarding who holds the rights to Colorado River Water. The decision also raises the issue of IID's authority to equitably determine how to distribute a finite amount of water when the demand for such water exceeds the supply. If the decision is not reversed, non-agricultural water uses, including but not limited to the City and other existing users within the City, may face severe hurdles in obtaining and preserving a reliable water supply, regardless of the substantial economic, employment, environmental or recreational benefits of such non-agricultural existing uses.

Fiscal Impact:

None.

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Coordinated With:

None.

Attachments:

1. Resolution Supporting and Joining the Amicus Brief to be Filed by the Imperial Valley Coalition for Fair Sharing of Water in the Abatti v. Imperial Irrigation District Litigation.

RESOLUTION 2018-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO SUPPORTING AND JOINING THE AMICUS BRIEF TO BE FILED BY THE IMPERIAL VALLEY COALITION FOR FAIR-SHARING-OF-WATER IN THE ABATTI V. IMPERIAL IRRIGATION DISTRICT LITIGATION

WHEREAS, the Imperial Irrigation District, (the " District" or "IID") is a California irrigation district established and governed by California statutory provisions generally found in the California Water Code; and

WHEREAS, IID provides domestic and other water (including Colorado River Water) to the City and its residents and businesses; and

WHEREAS, the recent Imperial County Superior Court decision in Michael Abatti v. Imperial Irrigation District raises substantial and serious factual and legal question regarding who hold the rights to Colorado River Water; and

WHEREAS, the decision also raises the issue of IID's authority to equitably determine how to distribute the finite amount of water when the demand for such water exceeds the supply; and

WHEREAS, in the event that the decision is not reversed, non-agricultural water uses, including but not limited to the City and other existing users within the City, may face severe hurdles in obtaining and preserving a reliable water supply, regardless of the substantial economic, employment, environmental or recreational benefits of such nonagricultural existing uses; and

WHEREAS, a review and reversal of the decision is necessary to confirm IID's rights to Colorado River Water historically and as expressly assigned to IID, perfected by IID under California law, and modified by federal law and contract in the Colorado River Compact, Boulder Canyon Project Act, Seven Party Agreement, IID's contract with the Secretary of the Interior and the Quantification Settlement Agreement as well as other related agreements; and

WHEREAS, the appellate court also should confirm IID's right to equitably deliver Colorado River Water for reasonable and beneficial uses including irrigation, industry, mining, livestock, power generation and domestic uses and incidental uses associated with uses, including but not limited to environmental mitigation; and

WHEREAS, the appellate court should also confirm IID's express and implied authority to charge for the use of the water it delivers; and

WHEREAS, the Imperial Valley Coalition for Fair-Sharing-of-Water (" Coalition") has requested that the City support its amicus brief to the appellate court in Michael Abatti, as Trustee, etc., et al. v. Imperial Irrigation District, case number D072850, Fourth District Court of Appeal.

NOW THEREFORE BE IT RESOLVED BY THE CITY OF CALEXICO CALIFORNIA,

Calexico does hereby resolve as follows:

Section 1. The foregoing is true, correct and adopted;

Section 2. The City Council hereby supports the Coalition's amicus brief in the appellate court, agrees to be a signatory on such brief, and directs the City Attorney to sign said brief on behalf of the City;

Section 3. The City Manager and City Attorney of the City of Calexico are hereby authorized to take any actions necessary to carry out this Resolution.

PASSED, APPROVED, AN ADOPTED at a regular meeting this 19th day of December 2018 by the City Council of the City of Calexico.

MAYOR

ATTEST:

Gabriela Garcia, Deputy City Clerk