CONTRA COSTA
WATER DISTRICT

1331 Concord Avenue
P.O. Box H2O
Concord, CA 94524
(510) 688-8000 FAX (510) 688-8122

RECEIVED

MAR 0 1 1996

WATER SUPPLY IMPROVEMENTS

Directors

Joseph L. Campbell
President

James Pretti
Vice President

Elizabeth R. Anello
Bette Boatmun
Noble O. Elcenko, D.C.

Walter J. Bishop
General Manager

February 29, 1996

Ms. Maria Morrison
Project Engineer
East Bay Municipal Utility District
375 Eleventh Street
Oakland, California 94607-4240

Re: CCWD Comments on the NOP and Initial Study for the Folsom South Canal Connection Project

Dear Ms. Morrison:

This letter contains the comments of the Contra Costa Water District ("CCWD") on the Notice of Preparation ("NOP") and Initial Study for the proposed Folsom South Canal ("FSC") Connection Project, dated January 22, 1996. The Initial Study was circulated by the East Bay Municipal Utility District ("EBMUD") for a 30-day comment period on January 29, 1996.

EBMUD contracted with the United States Bureau of Reclamation ("USBR") in 1970 for up to 150,000 acre-feet of water annually from the American River via the Folsom South Canal. EBMUD has not yet built any facilities for taking this water from the Folsom South Canal, but may have taken some contract water in the Sacramento-San Joaquin Delta ("Delta") at Bixler during the 1976-1977 drought. In 1993, EBMUD completed and adopted a program environmental impact report ("EIR") for its Water Supply Management Program ("WSMP"). This program EIR analyzed a number of alternatives for obtaining additional supplies necessary for the future of EBMUD customers. This Initial Study is for a site-specific EIR for building a pipeline connection between the Folsom South Canal at the EBMUD turnout and the Mokelumne Aqueduct to deliver American River water to the EBMUD service area.

Contra Costa Water District has the following comments on the proposal.

1. Present Proposal is Different than the WSMP Alternatives

The EIR for the 1993 WSMP considered a number of alternatives for augmenting EBMUD's future water supply needs. Of the six alternatives examined, only one included the use of American River water, through a connection to the Folsom South Canal (Composite Program IV). That alternative proposed use of the American River water along with a program of conjunctive use of groundwater (recharged using Mokelumne River water). However, in Composite Program IV, the proposed location of the pipeline connection to the Folsom South Canal was at the end of the Canal near Rancho Seco. The study area of the WSMP included the corridor between Stockton and Rancho Seco (See Technical Appendix G2, page 1-36). The preferred alternative was Composite Program II, groundwater storage with conjunctive use of Mokelumne River water (page 26, EBMUD Board of Directors' Findings Regarding EBMUD's Updated Water Supply Management Program, October 26, 1993). The preferred alternative did not include the use of American River water.

The January 26, 1996 Initial Study does not provide sufficient detail regarding the linkage of this FSC Connection Project with other possible components identified in the 1993 WSMP such as conjunctive use of Mokelumne River water, terminal storage or a raised Pardee Dam. It is not clear from the Initial Study whether the FSC pipeline connection will be linked with any or all other program components developed in the 1993 WSMP.

Because the project configuration discussed in this Initial Study was not considered in the 1993 WSMP and the Initial Study does not describe how this project would be linked with other components, the project environmental impact documentation will need to fully reevaluate the FSC Connection, both along with a range of different components and as the only component.

2. The Initial Study Does Not Address the Reasons for the Change in Project or the Impact

The January 22, 1996 Initial Study proposes a different FSC project than the one outlined in the 1993 WSMP. The Initial Study does not discuss the 1993 Board of Directors' preferred alternative nor does it explain why that alternative is not being used. There is no discussion of the impacts of these changes. Only the proposed FSC Connection Project is presented, and it is a different project than the one analyzed in the 1993 WSMP. There is no discussion of the conjunctive use program in this project. This was an important component in the alternative described in the 1993 WSMP.

The FSC connection originates at Grant Line Road and follows a different route than the one described in the 1993 WSMP for over 15 miles. This portion of the FSC Connection Project includes significant new features such as crossing over or siphoning under the Cosumnes River.

The environmental documentation for this FSC Connection Project needs to address in detail the reasons for the choice of this project configuration and why other previously preferred alternatives were later rejected. The impacts of these changes need to be discussed in detail.

3. The 1993 WSMP is Inadequate as a Program-Level EIR for this American River Project.

There have been many significant changes since the adoption of the 1993 WSMP. On December 15, 1994, state and federal agencies and Bay-Delta stakeholders signed the "Principles for Agreement of Bay-Delta standards between the State of California and the Federal Government." The Principles for Agreement formed the basis for the Water Quality Control Plan adopted by the California State Water Resources Control Board ("SWRCB") in May 1995, which made significant changes to the way the Delta is operated. The SWRCB is presently in the process of developing a water rights decision to implement these requirements for San Francisco Bay and Sacramento-San Joaquin Delta. This water rights decision may result in significant reductions in the amount of water available to CVP and SWP contractors as well as other water rights holders.

There have also been new biological opinions for the operation of the State Water Project and Central Valley Project for the protection of Delta smelt and Winter-run Chinook salmon under the Endangered Species Act. At the same time, the CVP has been working to develop a programmatic EIS for implementation of the Central Valley Improvement Act (CVPIA) and has already made changes in its operations and purchased additional water to meet many of the goals of the CVPIA. In addition, CALFED is developing a long-term solution for the Delta, that will likely include elements of ecosystem restoration and improved water transfer through or around the Delta.

The 1990 Hodge Decision limited EBMUD's ability to implement its USBR contract by placing minimum flow requirements in the American River in order to provide some protection for fisheries and public trust resources of the lower American River. However, the American River is tributary to the Sacramento River and eventually the Sacramento-San Joaquin Delta. Diverting this water upstream of the Delta could affect not only the Delta ecosystem but also the current SWRCB, CVPIA and CALFED proceedings which are trying to find solutions to Bay-Delta problems. The FSC Connection Project needs to be fully and adequately evaluated in light of the new Bay-Delta conditions as well as the Hodge Decision limits.

In addition, the EBMUD Boards' October 26, 1993 findings regarding the WSMP contain the statement (page 33) that:

> "Nothing in these findings is meant to preclude the District's participation in a joint groundwater/conjunctive use project with agencies in San Joaquin County involving the District's American River contract and the Board would be willing to consider such a project, provided that: (1) the CEQA review of any such project would begin *de novo* as no joint project involving the use of the District's American River contract was reviewed adequately in this EIR to satisfy the need for a program-level alternatives analysis of such a project; ....."

In view of the significant changes to the regulatory and environmental requirements for the Bay-Delta and the 1993 EBMUD Board of Directors' own findings of inadequacy of the 1993 WSMP for the use of American River water, EBMUD needs to fully explain why only a project-level analysis is appropriate for the FSC Connection Project.

EBMUD should reanalyze the choice of point of diversion for the American River water to determine the least impacting location and time, to avoid adversely impacting the Delta and the new Bay-Delta standards. Other possible diversion locations include Freeport or Hood on the Sacramento River or Bixler in the Delta. Taking delivery of water in the Delta, for example, will increase the Delta inflow term in the export/inflow limitations in the May 1995 WQCP, and could affect the amount of water that can be exported at the SWP and CVP pumps.

4. <u>The Proposed Study Areas for this Project are Insufficient</u>

The Initial Study only lists two primary study areas, the Lower American River area (from Folsom Dam to the confluence with the Sacramento River) and the FSC Connection study area. As discussed under #3 above, the primary study area for assessing the impacts of the FSC Connection Project needs to be enlarged to include the Sacramento-San Joaquin Delta. This will enable EBMUD to analyze the impact of the FSC Connection Project:

(a) on fisheries in the Bay-Delta system,
(b) on Delta water quality standards,
(c) on the ability of the CVP to satisfy the demands of other CVP contractors,
(d) on the SWRCB's implementation of the May 1995 WQCP,
(e) on the goals of the CVPIA and CALFED,

This will also allow an analysis of other alternative points of diversion such as Freeport or Hood on the Sacramento River and Bixler in the Delta.

Including this larger study area in the EIR for the FSC Connection Project may change some of the conclusions in the Environmental Checklist in the Initial Study. Several of the footnotes in the Environmental Checklist, for example, refer to studies in the 1993 WSMP which was determined by the EBMUD Board of Directors to be inadequate for assessing the impacts of projects involving the use of American River water (see #3 above).

5. EBMUD's 1970 Water Supply Contract will likely need to be Amended prior to Delivery of Water under this Contract

A number of significant changes to USBR policy have occurred since the Contract No. 14-06-200-5183A Between the United States of America and East Bay Municipal Utility District Providing for Water Service, dated December 22, 1970, was entered into. These include the rate setting policy, cost recovery principles stemming from the Reclamation Reform Act of 1982, and components related to the Central Valley Project Improvement Act. It appears likely that the USBR may want to amend the December, 1970 water supply contract prior to delivering American River water to EBMUD. As noted in the Initial Study, such a contract amendment and negotiation would likely fall under the requirements of NEPA.

For example, the 1970 Contract contains a water shortage provision for EBMUD as a municipal and industrial customer that may be inconsistent with the ability of the CVP to deliver water to EBMUD via the proposed FSC pipeline connection in dry and critical years under the terms of the Hodge Decision.

Because the 1970 Water Supply Contract will likely need to be amended prior to delivery of any American River water to EBMUD through the FSC pipeline connection, NEPA documentation may also be required.

CCWD appreciates the opportunity to provide comments on the NOP and Initial Study for the Folsom South Canal Project. If you have any questions regarding these comments, please contact me at (510) 688-8187.

Sincerely,

Richard A. Denton
Water Resources Manager

RAD/WJH/ce