

RECEIVED

MAR 04 1996



WATER SUPPLY IMPROVEMENTS

OFFICE OF THE
CITY ATTORNEY

SAMUEL L. JACKSON
CITY ATTORNEY

THEODOR H. KOBEY JR.
ASSISTANT CITY ATTORNEY

WILLIAM P. CARNAZZO
ASSISTANT CITY ATTORNEY

CITY OF SACRAMENTO
CALIFORNIA

February 29, 1996

921 ELEVENTH STREET
SUITE 700
SACRAMENTO, CA
95811-2717

PH 916-264-5446
FAX 916-264-7155

DEPUTY CITY ATTORNEYS
RICHARD E. ARCHIBALD
DIANE B. BALTER
CATHERINE H. BROWN
BRUCE C. CLINE
BYRON D. DAMIANI, JR.
SHANA S. FABER
H. MICHAEL JOHNSON
JOSEPH M. KERNY
EMARA MILLIGAN-HARMON
JOE ROBINSON
STEPHANIE SHIMAZU
REGINA SILVA
SANDRA G. TALBOT
ROBERT D. TOKI NAGA

Ms. Maria Morrison, Project Engineer
East Bay Municipal Utility District
Water Supply Improvements Division
375 Eleventh Street
Oakland, CA 94607-4240

Re: **Comments on Notice of Preparation (NOP) for
Folsom South Canal (FSC) Connection Project EIR**

Dear Ms. Morrison:

The following comments on the NOP and Initial Study issued for the FSC Connection Project environmental impact report (EIR) are submitted on behalf of the City of Sacramento, Department of Utilities:

1. Throughout the Initial Study, the assumption is made that the project's impacts on the lower American River will be less-than-significant because (a) EBMUD's diversions of American River water through the FSC will comply with the minimum flow standards imposed by Judge Hodge in *EDF v. EBMUD* (the "Hodge flows"), and (b) EBMUD's diversions when the Hodge flows are present in the lower American River would reduce the amount of water in the river "by only 2 to 3 percent."

Although the Initial Study indicates that the Hodge flows were imposed as part of a physical solution intended to strike a balance between EBMUD's water supply needs and the instream needs of the lower American River, the document does not provide any explanation for its assumption that impacts occurring when Hodge flows are present in the lower American River will always be less-than-significant. The basis for this assumption should be explained in detail in the draft EIR for the FSC Connection Project.

In addition, the draft EIR should provide a thorough explanation of why the impact of flow reductions of 2 to 3 percent is deemed to be less-than-significant when analyzed in conjunction with the future cumulative effects of all other foreseeable demands for American River water, particularly with respect to the portion of the lower American River upstream of H Street, where the majority of fish spawning habitat is located.

c:\wp60data\jr\advisory\ebmud.nop

C - 0 8 4 9 5 4

C-084954

Ms. Maria Morrison

Re: **Comments on Notice of Preparation (NOP) for
Folsom South Canal (FSC) Connection Project EIR**

February 29, 1996

Page 2

2. The Initial Study refers to the evidence presented in the *EDF v. EBMUD* litigation. Any data and information related to instream needs on the lower American River that has been developed since evidence was presented in *EDF v. EBMUD* should also be included in the draft EIR.

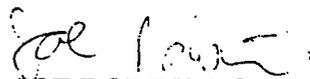
3. The Initial Study indicates that the FSC Connection Project will have no impact on local or regional water supplies. This conclusion seems to run counter to the expressed purpose of the project - to export American River water out of this region, for ultimate use in the EBMUD service area. How is it possible to state unequivocally that such exports do not have the potential, either now or in the future, to reduce the supply of water otherwise available to this region from the American River? Even if EBMUD's diversions occur only when Hodge flows are present in the lower American River, won't such diversions result in the export of water that otherwise would be available to meet future water supply needs in this region? The draft EIR should thoroughly address the FSC Connection Project's potential future impacts on water supplies needed to protect the instream resources of the lower American River and also meet the future water supply needs of this region.

4. In order to provide an adequate and realistic analysis of the FSC Connection Project's impacts on the various uses and users of lower American River water, the draft EIR's analysis of future water availability under EBMUD's Bureau of Reclamation contract should not be limited to the historic record of water availability, but should consider all reasonably foreseeable operating criteria for Folsom Reservoir, including the future operation of Folsom Reservoir to meet the requirements of the Central Valley Project Improvement Act, the Endangered Species Act, Bay/Delta requirements and/or flood control requirements. Consideration of reasonably foreseeable future operations and their associated hydrologic models is necessary to adequately analyze the future cumulative impacts of EBMUD's proposed FSC diversions.

5. The draft EIR for the FSC Connection Project should explain in detail the relationship of this Project to the other proposed elements of EBMUD's WSMP, including any proposals to store groundwater in San Joaquin County. The future availability of American River water for any purpose should be analyzed on the basis of all reasonably foreseeable future operating criteria for Folsom Reservoir, as discussed above.

The City appreciates the opportunity to submit the above comments.

Very truly yours,


JOE ROBINSON
Deputy City Attorney

JR/gt

cc: Jim Sequeira

c:\wp60data\jr\advisory\ebmud.nop