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January 20, 2000

Brad Wetstone, CPUC  
 c/o Aspen Environmental Group  
 30423 Canwood Street, Suite 215  
 Agoura Hills, CA 91301

**Re: Draft Supplemental Environmental Impact Report (DSEIR): Bolsa Chica Water Transmission Line and Wastewater Service Project**

Dear Mr. Wetstone:

These comments on the DSEIR prepared for the Southern California Water Company's application to provide water and wastewater service (the SCWC Project) are provided on behalf of our client, Hearthside Homes, the developer of the Warner Mesa residential project (also referenced in the DSEIR as the Bolsa Chica Planned Community).

In general, we are concerned that the DSEIR is not prepared and does not function as a Supplemental EIR as defined in the CEQA Guidelines. In particular, the DSEIR is inconsistent in the manner in which it "supplements" the environmental analysis in the program Environmental Impact Report for the Bolsa Chica project (Bolsa EIR) certified by the County in 1996. As a supplemental EIR, the DSEIR need only provide the information required to make the previous Bolsa EIR adequate for the project as revised. (14 Cal. Code of Reg. § 15163(b).) In some cases, the DSEIR is clear in acknowledging the scope of the certified Bolsa EIR and limits its focus to new information and analysis (e.g., Sections B.6.2 and E), while other sections fail to note the fact that an analysis of the impact was previously conducted in the Bolsa EIR and the DSEIR essentially rehashes the findings of the previous Bolsa EIR (e.g., Sections B.6.3, C.1, C.6, C.7 and C.10). The effect of this inconsistency is to confuse the reader as to the true impact of the changes to the previously approved project, and what the appropriate mitigation measures should be to address the impacts of these changes. In short, this is a Supplemental EIR and the analysis should be revised to clearly limit its scope to that of a Supplemental EIR.

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The DSEIR should spell out the fact that the CPUC, as lead agency for the SCWC Project, has determined that a supplemental EIR is required for SCWC's applications solely because the water service and wastewater service components of the project which was the subject of the previous EIR have changed. Each section of the DSEIR should then clearly point out the scope of the previous EIR's discussion of these points and should focus on the new information required as a result of the proposed changes to the project.

18-2

Perhaps partly as a result of the DSEIR's inconsistent treatment of the Bolsa EIR, the DSEIR is also flawed by the incorporation of mitigation measures which do not serve to mitigate the impacts of the SCWC Project or which impose costly new measures with only speculative benefits.

Our detailed comments are as follows:

1. Page ES-3, Paragraph 1: Please note that the County certified the Bolsa Chica EIR in 1994. As a result of litigation, however, the court ordered that the EIR be recirculated. The County prepared a document titled, "Recirculated Draft Environmental Impact Report for Bolsa Chica Local Coastal Program" and certified that document in 1996. Therefore, the text on line 5 should be revised to read: "Since certification of the EIR in 1996, . . ."

18-3

2. Page ES-4, Section ES.3, Areas of Controversy, Paragraph 2, Lines 7-9: Please note that while the City has indicated that it is the logical water service agency, City Code provisions prohibit the extension of domestic water service to areas outside of the City limits. The Bolsa Chica Planned Community site is currently in the County of Orange, and, therefore, until the property is annexed to the City, the City cannot claim to be the logical water service agency.

18-4

3. Page ES-4, Section ES.3, Areas of Controversy, Paragraph 2, Line 10: Please note that the Warner Mesa (referred to as the Bolsa Chica Mesa in the DSEIR) has been designated in the Orange County General Plan and zoned for residential development since the 1980's. Although the property is currently undeveloped, it was most recently used for oil production activities. Therefore, to reference the Mesa as open space is not entirely accurate. It is not zoned open space and has never been planned, used, or proposed as open space. Please revise this sentence to read: "A broader issue of controversy is the conversion of the Bolsa Chica Mesa from its current undeveloped state to residential/recreational uses."

18-5

4. Page ES-5, Section ES.4, Issues to Be Resolved, Paragraph 2: The second paragraph of this section notes that the City and the development project proponent have failed to agree to terms of annexation to the City. It would be more accurate to state that the City of

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Huntington Beach has refused to consider an agreement to provide water service to the project or the annexation of the project to the City of Huntington Beach at least until the California Coastal Commission acts on the latest referral of the project from the Court of Appeal. Huntington Beach City Code provisions prohibit the extension of domestic water services to areas outside of the City limits. (The same comment applies to the discussion of this issue under Section A.4 - PROJECT BACKGROUND).

We would request that the section also discuss the fact that the issues to be resolved identified in Section ES.4 are really issues that must be addressed as part of the CPUC approval process. These are not environmental issues, but issues concerning project approval. The interests of ratepayers is an economic issue; it is not an environmental issue. The purpose of CEQA is to inform decisionmakers about the environmental impacts of a proposed project. Economic changes are not treated as significant effects on the environment. (14 Cal. Code of Reg. § 15064.)

18-6

Finally, although it is mentioned in the last sentence of the fourth paragraph of this section, the ultimate decision of the Coastal Commission with respect to this property is not germane to the decision before the CPUC regarding the two applications before it. The DSEIR goes far afield in identifying the areas of controversy and issues to be resolved and encompasses issues far beyond the scope of the limited project before the CPUC. The purpose of this DSEIR is to analyze the environmental impact of the proposed project, i.e., the two applications before the CPUC, not the viability and future of the overall Bolsa Chica development. Both of these sections should be revised to reflect the narrow focus of this DSEIR and avoid speculating on non-CEQA issues beyond the authority of the lead agency.

5. Page ES-6, Paragraph 1: A key factor missing from the criteria used to select and evaluate alternatives is the fact that the alternative must be potentially feasible. (14 Cal. Code of Reg. § 15126.6(a).) (See also text on page A-6 that states that the EIR must consider a range of feasible alternatives.) Feasible is defined in the CEQA Guidelines to mean: "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." (14 Cal. Code of Reg. § 15364.)

18-7

Because feasibility is not one of the criteria by which the DSEIR evaluate alternatives, the analysis of alternatives is flawed. This omission is particularly significant in the DSEIR's analysis and assessment of Alternative 1, Connection to the City of Huntington Beach System which the DSEIR identifies as the environmentally superior alternative. The DSEIR conveniently omits the fact that this alternative is legally infeasible at the present time. As

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- stated previously, the property is in the County of Orange. The City of Huntington Beach has refused to consider providing water services to the property because it is not within its jurisdiction. The Huntington Beach City Code prohibits the extension of domestic water services to areas outside the City limits. Until annexation is completed, this alternative must be considered infeasible because of legal factors. | 18-7
6. Page ES-7, Third Full Paragraph: Insert "Alternative 4:" before North Seal Beach Wellfields. | 18-8
7. Page ES-7, Fifth Full Paragraph: Insert "Alternative 5" before No Project Alternative. | 18-9
8. Page ES-9, Table ES-2, Summary of Impacts and Mitigation Measures: Our comments on the assessment of impacts and the recommended mitigation measures are set forth in our comments on the impact analysis discussion of the DSEIR. The comments on those sections should also be considered comments on conclusions and information presented in this Summary Table. | 18-10
9. Page A-1, Paragraph 2, Line 3: Please note that the County recertified the EIR after it was recirculated in 1996. | 18-11
10. Page A-1, Paragraph 2, Lines 7-8: Please add that the "other information" that will be considered by the Lead Agency will include the previously certified Bolsa EIR. Section 15163 of the CEQA Guidelines requires the lead agency to consider the previous EIR as revised by the supplemental EIR when deciding whether to approve the project. | 18-12
11. Page A-2, Third Full Paragraph, Last Line: The reference to Section B.10 should be to Section B.9., and Table B.9-1. | 18-13
12. Page A-3, First Full Paragraph, Line 1: The reference to "Bolsa Chica Wetlands" should be changed to "Bolsa Chica Lowlands." Only a portion of the Lowlands area was delineated as actual "wetlands." Also, the development proposal encompassed the Bolsa Chica Mesa, the Bolsa Chica Lowlands, and the Huntington Mesa. | 18-14
13. Page A-3, Section A.4., Paragraph 3: Please see comment 4, above. The City declined to consider an agreement for services until the Coastal Commission acts. | 18-15
14. Page A-5, Paragraph 5, Line 2: The issue regarding the eucalyptus grove is not that the appellate court found it to be "bird habitat" but that it was designated as an ESHA. Please replace "as a bird habitat" with "as an ESHA [environmentally sensitive habitat area]." | 18-16

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| 15. | <u>Page A-5, Section A.4.5, Line 5:</u> Because January 2000 is almost over, replace "January 2000" with "early 2000."   | 18-17 |
| 16. | <u>Page A-6, Paragraph 1, Line 10:</u> Replace "Court of Appeal's protection order" with "Court of Appeal's decision."   | 18-18 |
| 17. | <u>Page A-7, Section A.5.2:</u> Please replace all references to "Bolsa Chica Report Local Coastal Program EIR" with "1996 Recirculated Draft Environmental Impact Report for Bolsa Chica Local Coastal Program."  | 18-19 |
| 18. | <u>Page A-12, Section A.9, Paragraph 4:</u> Given that this is a supplemental EIR, it would be helpful if the environmental and regulatory setting focused on identifying the changes from the prior discussion of the Bolsa EIR. This way the reader can more clearly distinguish what changes have occurred in the environmental setting since certification of the Bolsa EIR in 1996 - which this document supplements.   | 18-20 |
| 19. | <u>Page B-16, Section B.6.2 - ON-SITE WATER FACILITIES:</u> The third and fourth sentence of the first paragraph contain a good example of how the DSEIR should distinguish between the new information contained in the DSEIR and information that is being summarized from the previous EIR for continuity sake. We recommend that the DSEIR be reviewed in its entirety and revised as appropriate to clearly distinguish between the new information presented in the DSEIR and the information that is being supplemented by this document that was in the prior Bolsa Chica EIR. | 18-21 |
| 20. | <u>Page B-18, Lines 1-4:</u> These first few lines of text are somewhat confusing. Please revise to indicate what the maximum day demand plus fire flow is. The text identifies the fire flow requirement, but does not put it into context against the reservoir capacity and what is needed to achieve maximum day demand plus fire flow.  | 18-22 |
| 21. | <u>Page B-20, Section B.6.3 - WASTEWATER COLLECTION FACILITIES:</u> This is a good example of the inconsistency in the DSEIR approach. This section should also distinguish between what is being analyzed in the DSEIR and what was covered by the previous EIR. Also, there is no proposal for reclaimed water as described in paragraph 5.  | 18-23 |
| 22. | <u>Page B-21, First Full Paragraph:</u> The last two sentences of the paragraph should be deleted. The analysis of this DSEIR must be based upon the applications and material before the CPUC which is the project description provided by Hearthside Homes. The speculation that is contained in the last two sentences is irrelevant to the application before the CPUC. Also,  | 18-24 |

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under the heading - Lift Station - the new lift station to be constructed for the project is independent of the City of Huntington Beach system and will not replace the existing city lift station at Edgewater Lane and Warner Avenue.

18-24

23. Page C.1-7, State Regulations and Laws: All of these bills mentioned in the bullet list were enacted by the Legislature. References to bill numbers are meaningless without reference to the year in which they were enacted. Also, the relevant information is where these bills are now codified in the State Codes. All references to bills should be replaced with references to code sections.

18-25

24. Page C.1-12, Construction Emissions and Mitigation Measures: As we have stated repeatedly, this is a supplemental EIR which *supplements* the analysis in the prior certified Bolsa Chica EIR. The air quality analysis in the Bolsa Chica EIR contained an extensive discussion of air quality impacts for the proposed project, which contemplated a certain level of construction activities for sewer and water lines (see Bolsa Chica EIR at 4.10-13), and similar to the DSEIR, the only air emission that was determined to exceed SCAQMD thresholds was NOx (see Bolsa Chica EIR at 4.10-12). The discussion in this section appears to add nothing to the discussion of this topic in the previous Bolsa Chica EIR. The impacts of the construction of the pipeline are the same as the impacts of construction noted in the previous EIR. Therefore, the discussion in the DSEIR should be limited to what additional emissions will be generated by the current project, whether it exceeds the impacts previously identified (it should not, as short-term NOx was identified as significant and unavoidable), and what additional mitigation measures -- beyond those already adopted by the County -- are required to mitigate the NOx air quality impacts.

18-26

A careful and thorough review of the Air Quality analysis in the Bolsa Chica EIR will reveal that a majority of the mitigation measures have already been adopted for the project. Specifically, Mitigation Measures A-1, A-2, A-3, A-4, A-5, and A-9 have already been adopted and made a condition of the Bolsa Chica project. In fact, the mitigation measures that have already been imposed on the project are in some cases more stringent than the Mitigation Measures identified in the DSEIR. The failure of the preparers of this DSEIR to review the prior certified EIR and properly tier the analysis is reflected in the redundancy of these measures. In addition, the measures identified in the prior certified Bolsa Chica EIR were identified as standard SCAQMD measures. What is the source of the remainder of the mitigation measures in this section, specifically A-6 to A-8, and what additional air quality impacts generated by this specific project require the imposition of new, additional mitigation measures.

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- 25. Page C.2-4, Table C.2-2, Line 2, Notes: Typo: "tacking" should be "taking."

18-27
- 26. Page C.2-10, Significance Criteria, Bullets 3, 4 and 5: The analysis should note that this is a construction project. Once the pipeline has been constructed, there should be little if any long term operational noise associated with it. Therefore, significance criteria for long-term noise impacts are not relevant to this particular analysis as the majority of impacts are from short-term construction noise. Finally, since this is a construction project which will operate between the hours of 7 a.m. and 6 p.m., the last significance criteria is also not relevant to the discussion.

18-28
- 27. Page C.2-10, Section C.2.2.3, Construction Impacts: The analysis of construction noise is flawed in that the impact analysis fails to take into consideration the environmental setting described previously. As noted on page C.2-11, the proposed project would be located almost entirely within the rights-of-way of various transportation corridors. These corridors in and of themselves are noise generators as evidenced by Table C.2-2. As the discussion notes on page C.2-11, noise levels adjacent to the pipeline construction project could be 70-80 dBA. We note that of the 8 street sections listed on Table C.2-2 where the pipeline will be constructed, the ambient noise levels along 7 of the 8 segments is already between 70-80 dBA, and 3 segments exceed 80 dBA, and the eighth segment is only slightly below 70 dBA. This project will not be constructed in areas where there is not existing noise. Traffic will not be halted on any of these street segments while the pipeline construction project occurs. In fact, the construction will occur against the background of existing traffic noise. Given the existing ambient noise levels, the construction does not exceed the thresholds of significance and does not require any mitigation measures.

As stated previously, noise mitigation measures for construction noise impacts have already been identified and adopted by the County for the Bolsa Chica project. Proposed mitigation measure N-3 has already been adopted by the County and imposed as a condition of the Bolsa Chica project.

In addition to not being required because there is no significant noise impacts given the ambient noise levels that already exist and will continue to exist during the project, we fail to see how providing notice and a telephone number will effectively reduce noise impacts. Because these measures are both unnecessary and appear to be ineffectual at actual noise reduction, they should both be eliminated from the DSEIR.

18-29
- 28. Page C.3-10, Section C.3.2.1: The significance criteria are meaningless and entirely subjective. Some criteria for defining what is an "adverse" impact should be provided. The

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- prior EIR which this DSEIR supplements utilizes levels of service to quantify the traffic impact. We would suggest that the same criteria be used here, and that only if the project results in a reduction in a Level of Service should the impact be considered significant. The use of LOS should be incorporated into criteria 1 and 2. With respect to criteria 3, 4 and 5, the criteria should be made more specific and the impact considered significant only if access is eliminated, transit service is precluded from standard operations, and bicycle/pedestrian traffic is prohibited such that there are no alternative routes or that safety is compromised. These additional factors would provide some measurable criteria to better assess the significance of the impact. 18-30
29. Page C.3-12, Mitigation Measures T-1: As noted previously, this DSEIR is intended to supplement the prior certified EIR, its analysis and its mitigation measures. The requirement to prepare a construction traffic control plan has already been imposed on the project, and mitigation measure T-1 is redundant. The prior mitigation measure should be identified and brought forward to this EIR and revised to ensure that all affected jurisdictions approve the plan for work within their respective jurisdictional boundaries. 18-31
30. Page C.3-11, Impacts on Roadway System Capacity: The analysis states that the loss of roadway/intersection capacity related to the pipeline construction is substantial and service levels would be adversely impacted along the Bolsa Chica Street/Road corridor. The DSEIR does not identify how the levels of service will be impacted. The DSEIR should identify the current levels of service and what impact will the project have on these levels of service. The conclusions appear to be entirely subjective and based upon a perception that a pipeline project will decrease an unquantified and unidentified level of service. 18-32
31. Page C.5-9, Significance Criteria, Bullet 1: The very subjective term, "adversely" is once again used in this criteria to measure an impact. What constitutes an "adverse" effect? We would recommend that in light of the criteria that the words, "permanently disturbed, eliminated or otherwise significantly modified such that the values would be lost" be added to this significance criteria to better characterize the impact. 18-33
32. Page C.5-10, Section C.5.2.4: The significance criteria do not focus on the physical impacts of pipe ruptures. Pipe ruptures are not a significant adverse impact, it is the physical impact of the release of water. Won't the rupture be identified and the water shut off in the event of a rupture? If so, what is the unmitigable impact? In fact, Mitigation Measure 4.2-3b in the certified Bolsa Chica EIR requires certain design specifications for water and sewer utilities that must traverse fault. These design requirements were specifically adopted to address the impact identified in this section. The DSEIR should assess the prior EIR's 18-34

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analysis, and the mitigation measures adopted for these specific impacts and discuss why additional measures are required. Again, the DSEIR has failed to adequately consider the analysis that is in the certified EIR and the mitigation measures already imposed on the project. An adequate supplemental EIR must consider the prior EIR, the prior adopted mitigation measures and then identify what additional factors, if any, have changed which require new mitigation measures.

18-34

In addition to a lack of evidence to support the finding of significance, Mitigation Measures G-1 and G-2 appear to require deferred mitigation and studies after the project is approved. These studies should either be conducted before the DSEIR is certified, or more specific criteria for the studies and mitigation, such as is required by Mitigation Measure G-3, should be provided.

33. Section C.6. Hydrology and Water Quality: The majority of the discussion in this section was already addressed in the previous certified Bolsa Chica EIR. Again, the DSEIR fails to "supplement" the previous EIR and reconsiders anew the impacts of the project and the environmental setting. We suggest that the discussion in the Bolsa Chica EIR regarding hydrology be summarized here, and that the discussion focus on the changes and differences between the project and setting described previously and the current project. Also, the DSEIR should consider all previously adopted mitigation measures, project design features and standard conditions and identify new measures, only where a new impact is identified, or additional mitigation because of an increase in the severity of an impact is identified.

18-35

34. Page C.7-1, Paragraph 1, Lines 5-7: The information in this section should also be based on the extensive discussion of cultural resources for the project area that was in the certified Bolsa Chica EIR.

18-36

35. Pages C.7-1 to C.7-5: Similar to many other sections of the DSEIR, these pages simply restate the information in the previously certified EIR. Reference to that discussion and a summary of that information should be provided. Only new information for areas not addressed in the previous EIR, i.e., the pipeline alignment through other jurisdictions, should be the focus of the discussion in this section.

18-37

36. Page C.7-7: In paragraph 4 on this page, the DSEIR states that site boundaries have been redefined. How do these site boundaries differ from the description of these sites in the prior certified EIR? Again, please supplement the discussion by identifying differences between the conditions existing now and those existing and described in the prior Bolsa Chica EIR. Also, in paragraph 5, the DSEIR states that little to no study has been completed in the area

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- between these three sites. There has been a considerable amount of work on ORA-85, ORA-83/86/144 and ORA-288, all of which was described in the prior EIR. The discussion in this DSEIR should be made consistent with the discussion in the EIR that this document supplements. 18-38
37. Page C.7-14: This section is the worst example of rehashing the previous EIR and consequently suggesting mitigation measures which may have been appropriate for certain aspects of the development project but which bear no relationship to the SCWC Project. The impact analysis should note that the majority of pipeline construction will occur in already-developed arterial, the subsurface area for which has already been significantly disturbed to construct the street and lay other utilities in the right-of-way. Consequently, these areas should generally not be considered areas of high cultural sensitivity due to significant disturbance from prior development. With respect to construction activities on the Bolsa Chica (Warner) Mesa, the prior certified EIR contains an extensive archaeological mitigation program which requires additional testing in these areas, Native American consultation and grading monitoring. These measures should be brought forward into this DSEIR since they address impacts to the same geographical area, and only if new impacts are identified or the severity of an impact is determined to be greater than previously thought (neither of which appear to be supported by the discussion) should new or different measures be identified. 18-39
38. Page C.8-1, Paragraph 1: The reference to the 1996 Bolsa Chica Local Coastal Program EIR should be changed to "1996 Recirculated Draft Environmental Impact Report for the Bolsa Chica Report Local Coastal Program (County of Orange)." The Chambers Group was not the author of that document. 18-40
39. Page C.8-6, Section C.8.2.1, Fourth Bullet: Additional details and definition must be provided for this significance criteria if it is to be used to assess impacts. First, what constitutes "natural vegetation." Are ruderal grasses and weeds considered natural vegetation? What are the criteria for identifying vegetation as "natural vegetation" and why should impacts to those communities be considered significant? Also, what is the purpose of the last phrase "slow to recover." If a vegetation community is sensitive, but grows back quickly if disturbed, are impacts to that community not considered significant? 18-41
40. Page C.8-7, Section C.8.2.1, First Bullet: This impact criteria needs additional detail and definition. Can the loss of any species, such as a weed, constitute a significant impact if that loss is significant. This criteria should be focused on listed or designated sensitive species in vegetation communities identified by either state or federal government as particularly sensitive. 18-42

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- 41. Page C.8-7, Section C.8.2.1, Second Bullet: "Critical habitat" should be defined to mean critical habitat designated by the U.S. Fish and Wildlife Service pursuant to the Endangered Species Act. Similarly, sensitive plant communities should be defined to mean those which have been so designated by the State Department of Fish and Game.

18-43
- 42. Page C.9-11, Regulatory Setting Section: The Orange County General Plan was amended in 1985 and subsequently in 1996 to reflect the approved plans for development of a residential planned community on the Bolsa Chica (Warner) Mesa, and the zoning was changed to reflect a Planned Community zone. No change in zoning is required at the County level. The property is already zoned and General Plan-designated for residential developments. These local entitlements were not affected by the litigation.

18-44
- 43. Page C.9-17, References: A portion of the pipeline would also be constructed in the City of Huntington Beach, yet the City's General Plan is not referenced in this list.

18-45
- 44. Page C.10-13, Schools: The first significance criteria is not a physical, environmental impact. Moreover, this Section is also largely redundant of the previous EIR. The new information should be segregated out and the old analysis noted as recommended above.

18-46
- 45. Page D-3, Section D.1.2.2.: The purpose of the alternatives analysis is to ascertain whether there are any feasible alternatives that are capable of reducing or eliminating adverse effects of the project. This function of the alternatives analysis is not clearly stated in the first paragraph on page D-3. This paragraph identifies three impacts likely to occur if the project is implemented. For the reasons discussed previously, only one impact is an unavoidable and adverse impact of the project: air quality impacts. There is no support in the traffic analysis to support a finding that the project will adversely impact traffic along the pipeline alignment. While there is speculation, no traffic studies appear to have been conducted that demonstrate a degradation in the levels of service along the alignment. Second, there is no evidence to support a finding that noise impacts are unavoidable and adverse. In light of the noise levels along the alignment, the noise generated by the project falls well within the current ambient noise levels on the arterial in which the pipeline will be constructed. Finally, there is no analysis in the EIR regarding the displacement or existing public or private utility lines. Where was this impact analyzed and determined to be unavoidable and adverse? We reviewed the Summary Table on pages ES-9 through ES-14 and failed to find where this impact was identified. Therefore, the alternatives analysis should focus on whether there are any alternatives that could reduce the air quality impacts to a level of less than significant.

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46. Page D-12, Alternative 1: There is a significant issue as to whether this alternative at this point in time is legally feasible given the position of the City and the requirements of its Code which prohibit service to areas outside of its jurisdiction. Our concerns regarding the feasibility of this alternative have been previously raised, and the EIR preparer is directed to those previous comments.

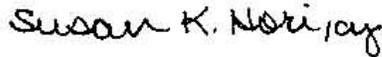
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47. Section E-1: As evidenced by the previous comments, the DSEIR fails in the main analysis section to address the changes in the project, impacts and mitigation measures from the project described and analyzed in the prior version of the EIR. The information in this section should be incorporated into the environmental analysis of Section C and should not be sequestered in a separate section at the end of the document. This discussion would be far more helpful and informative were it incorporated into the impact analysis section.

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We would be happy to discuss any of our comments with you or provide you with additional information in support of our concerns. Please do not hesitate to contact the undersigned.

Very truly yours,



Susan K. Hori

cc: Ed Mountford  
Patricia A. Schmiege

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**RESPONSES TO PAONE, CALLAHAN, McHOLM & WINTON  
Legal Counsel Representing Hearthside Homes  
Letter Dated January 20, 2000**

- 18-1 As stated in Section A.5.2, the SEIR focuses on the “new” component of the Bolsa Chica project that was not examined in the *1996 Recirculated Draft EIR for the Bolsa Chica Local Coastal Program* (i.e., the proposed water transmission line). The CPUC believes that the SEIR provides the information and analysis necessary to make the previous EIR adequate for the purpose of disclosing impacts associated with the proposed water line, including its connection to the proposed reservoir. The SEIR does not attempt to revisit issues examined in the previous EIR except as necessary to address the potential impacts associated with construction and operation of the proposed water line. This intent is stated in various places in the SEIR. We disagree with your assertion that the SEIR rehashes the findings of the previous EIR. For the convenience of the reader, certain information about baseline conditions in the area is repeated in the SEIR, but in terms of impact analysis the SEIR focuses on new impacts specifically associated with the water line. Since the previous EIR did not address impacts associated with the water line (hence the need for a Supplemental EIR) we do not see how the SEIR can be viewed as repetitive of the previous EIR. The impacts described in the previous EIR, and certainly the mitigation measures, are not specific enough to be presumed to be sufficient for the purposes of the analysis of the proposed water line.
- 18-2 Section A of the SEIR states that an EIR is required to analyze the potential impacts associated with the two applications for Certificates of Public Convenience and Necessity (CPCN) filed by Southern California Water Company (SCWC). The SEIR clearly indicates that the purpose of the SEIR is to analyze potential impacts associated with the subject of these CPCNs, namely 1) the construction and operation of a water transmission line to serve the proposed development on Bolsa Chica Mesa and 2) the designation of SCWC as the wastewater management agency for the planned wastewater collection system on Bolsa Chica Mesa. There is nothing stated in the SEIR to indicate that the document is intended to analyze anything other than the impacts associated with the subject of the CPCNs. In addition, in several places in the SEIR (pp. A-8, B-16, E-1), specific statements are made to inform the reader that the SEIR is not intended to reevaluate any components of the Bolsa Chica Planned Community project previously examined in the *1996 Recirculated Draft EIR for the Bolsa Chica Local Coastal Program*.
- 18-3 The text of the Final SEIR has been modified as suggested.
- 18-4 The text in Section ES.3 of the Draft SEIR merely describes the contours of the controversy, including the perspective of the major protagonists. The comment expands on the existing description of the controversy. The text has been modified to provide a discussion of annexation.
- 18-5 Thank you for pointing this out. The text has been modified to reflect this information.
- 18-6 Three distinct comments are made here. They are considered in turn:
- The characterization of the issue of annexation is based on the testimony of the City of Huntington Beach, the SCWC, Hearthside Homes, and others during the CPUC’s Proceeding. The CPUC acknowledges that annexation is considered a prerequisite to the provision of water service by the City. Agreement to terms for annexation seems to be one of the primary obstacles to the provision of water service by the City.

- We agree that the issues described in Section ES.4 are not environmental issues, but rather are issues to be considered as part of the CPUC’s Proceeding on the Applications. The purpose of Section ES.4 is to provide some broader context for the decisions to be made in relation to the Proposed Project and to clarify the relationship between the SEIR and other decision-making and approval processes. The first paragraph of Section ES.4 acknowledges that the resolution of these issues “is beyond the scope and purpose of this EIR.” There is no impact analysis in the SEIR related to the unresolved issues described in Section ES.4. Therefore, we do not believe the SEIR inappropriately purports to include matters that are beyond the scope of CEQA and this particular SEIR. Also, the SEIR does not analyze any economic effects of the project.
- We acknowledge that the CPUC does not have jurisdiction over the Bolsa Chica Planned Community project. As the commenter indicates, the final sentence in the section reads in part: “Resolution of these pending matters regarding the LCP is *independent* from the CPUC’s considerations of the applications for ... the Proposed Project” (emphasis added). Nowhere in the SEIR is there a statement asserting that the CPUC has jurisdiction over the Bolsa Chica Planned Community project. However, because the CPCN applications involve provision of water and wastewater service to this proposed development project, background information on the Bolsa Chica Planned Community project is provided in the SEIR.

18-7 The existing text of the SEIR explicitly acknowledges feasibility as a criterion for screening alternatives (see paragraph 1, ES.5). The CPUC believes that connection to the City of Huntington Beach’s water system *is* feasible, although an annexation agreement is required (a point already acknowledged elsewhere in the SEIR). The text also acknowledges that the proponent and the City have not reached terms in relation to an annexation agreement. The Administrative Law Judge’s scoping memo (dated March 16, 1999) specifically includes water service by the City of Huntington Beach as one of the issues to be addressed in the General Proceeding.

18-8 This correction has been made, thank you.

18-9 This correction has been made, thank you.

18-10 Noted.

18-11 This correction has been made, thank you.

18-12 Change made as requested, thank you.

18-13 Change made as suggested, thank you.

18-14 The document has been modified to explain that the term “Bolsa Chica Wetlands” is also sometimes referred to as the “Bolsa Chica Lowlands”.

18-15 See response for Comment 18-7.

18-16 The text has been corrected as suggested.

18-17 Correction made as suggested.

18-18 Correction made as suggested.

- 18-19 Correction made as suggested.
- 18-20 We appreciate this suggestion. However, we feel that it is more helpful to the reader for the SEIR to provide a complete discussion of the environmental setting for each issue area at the time the Notice of Preparation was issued, rather than focusing on changes in conditions since the time the previous EIR was prepared. This may make the SEIR lengthier than absolutely necessary, but we believe it makes it easier for the reader to understand both existing environmental conditions and potential environmental impacts. Also, the SEIR focuses on describing environmental conditions outside the study area of the previous EIR, namely the areas traversed by the proposed water line route. These areas were not described in any detail in the previous EIR.
- 18-21 The information in Section B.6.2 (On-site Water Facilities) and B.6.3 (Wastewater Collection Facilities) is presented for the purpose of helping the reader understand related components of the proposed water and wastewater facilities. The on-site water and wastewater facilities are not analyzed in the SEIR. Only a small amount of the information presented in the SEIR was presented in the previous EIR, or was presented in minimal detail since the previous EIR did not focus on water and wastewater facilities.
- 18-22 The following section will be added to the referenced paragraph:
- Based on the Plan of Works report, maximum day demand is 1,405 gpm and maximum day demand plus fire flow is 4,405 gpm. The capacity of the reservoir was sized to be either 4.0 MG without on-site wells or 2.0 MG with on-site wells. Additional data on the reservoir sizing may be found in the Plan of Works.
- (Note: The *Plan of Works for Water and Wastewater* (SCWC 1998) was submitted to the CPUC by the Applicant in support of the applications for Certificates of Convenience and Public Necessity.)
- 18-23 This information in Section B.6.3 of the SEIR is presented to inform the reader of the wastewater collection facilities that SCWC would own and operate. This information is pertinent to the CPCN applications filed by SCWC. The impacts associated with construction of these wastewater facilities are not analyzed in the SEIR because, as the commenter notes, these facilities were part of the project examined in the *1996 Recirculated Draft EIR for the Bolsa Chica Report Local Coastal Program*. The discussion regarding reclaimed water has been removed from Section B of the Final SEIR.
- 18-24 The description of pending actions by the Coastal Commission is presented as a point of information for the reader. The SEIR does not speculate on the outcome of these actions except to say the configuration of proposed development on Bolsa Chica Mesa has not been finalized. The Plan of Works submitted to the CPUC by SCWC as part of the CPCN application materials describes a new lift station that will replace the existing city lift station at Edgewater and Warner. SCWC has since changed the plans for the lift station. The plans no longer call for the existing lift station to be replaced. The text of Section B.6.3 has been changed in the Final SEIR to reflect the new scheme.
- 18-25 The suggested revisions have been incorporated into the Final SEIR.
- 18-26 Please see the response to Comment 18-1. The CPUC has jurisdiction over the facilities of the Proposed Project that are included in the applications for Certificates of Public Convenience and Necessity (CPCN). As a result, the SEIR preparers determined that a mitigation measure

similar to that identified in the previous *1996 Recirculated Draft EIR for the Bolsa Chica Report Local Coastal Program* should be tailored to address specific impacts associated with the proposed water line project. Therefore, we have included similar measures in this SEIR to reduce air quality impacts.

Mitigation Measure A-6 was a measure developed by the Santa Barbara County Air Pollution Control District to reduce NOx emissions (20% reduction) from construction equipment. It should be noted that this measure only applies to engines manufactured before 1996 and which do not have existing IC engine warranties with the manufacturer. Mitigation Measure A-7 is a standard measure intended to reduce lengthy idling times (and the emissions associated with idling) that can occur due to congestion during peak periods. Mitigation Measure A-8 is a straightforward measure that eliminates emissions from gasoline- or diesel-powered traffic control signs.

18-27 Correction made as suggested.

18-28 These significance criteria are typically used in the CEQA process to evaluate potential impacts from a Proposed Project. As described in the text of the SEIR, operational noise impacts associated with the Proposed Project would be limited to maintenance and repair activities. The text in Section C.2.2.4 of the Final SEIR has been changed to specifically indicate that no significant long-term noise impacts are anticipated.

18-29 As listed in Table C.2-2, a number of locations along the pipeline route experience relatively moderate noise levels. Specifically, the segment north of Interstate 405 has ambient noise levels in the range of 54.3 dBA to 57.3 dBA. In addition, the segment along Los Patos Road has an ambient noise level of 54.8 dBA. The SEIR analysis indicates that construction activities along these segments would clearly exceed the 15 dBA significance threshold and would be considered an adverse noise impact that can be mitigated to a less-than-significant level (Class II).

The CPUC has jurisdiction over the portion of the project that is included in the applications for Certificates of Public Convenience and Necessity (CPCN). The mitigation measure identified in the *1996 Recirculated Draft EIR for the Bolsa Chica Report Local Coastal Program* would not be applicable to the new water line project. Therefore, we have included a similar measure in this SEIR to reduce noise impacts.

As indicated above, a number of locations along the pipeline route would clearly be affected by construction activities. As a result, Mitigation Measures N-1 and N-2 are proposed to help reduce the adverse noise impacts from construction. Mitigation N-1 requires SCWC to provide advance notice of such construction activities to the public. The notice will state specifically when the construction will occur in the area, which will enable the public to plan for the disruption (e.g., closing all windows and doors in the dwelling, etc.). In addition, it should be noted that mitigation measure N-1 is an expanded and more detailed version of mitigation measures previously proposed by the applicant in the PEA.

Mitigation Measure N-2 would provide the public with additional information on the project, including how long the construction activities and noise levels would be expected to last. In addition, the community liaison would report any severe noise levels to the contractor and the CPUC, so that additional measures/procedures can be developed to reduce the short-term noise impacts, if necessary.

18-30 Because traffic impacts associated with pipeline construction project differ from traffic impacts associated with other types of projects (e.g., land development), a very specific set of significance criteria had to be identified. Traffic Level of Service has, in fact, been used in the SEIR as a means of measuring impact. The use of Level of Service in this case cannot be directly compared to that used in the previous EIR for several reasons. First, the time period, which will be impacted by the pipeline construction, is intended to be off-peak (e.g., between the a.m. and p.m. peak hours). Additionally, the potential impacts are temporary in nature. This notwithstanding, the impact on roadway capacity resulting from the closure of two of the three traffic lanes on Bolsa Chica Street is clearly a significant loss of capacity (reducing existing capacity by 33% to 50%) and a degradation of service levels even under non-peak traffic conditions. Typical lane closures at intersections could involve the loss of three or more traffic lanes and in some instances the closure of left-turn lanes. The amount of capacity that would be lost at the affected intersections during construction is substantial and this would clearly result in a significant and noticeable degradation in service levels.

Impacts on property access were considered significant if it was determined that there was a likelihood that access to individual properties would be completely blocked (e.g., with no alternative access) for several hours or more. Transit service impacts were considered significant if it was determined that transit operation along affected routes would likely be disrupted in terms of route blockage (e.g., which would require alternative routing to be used) or inability to maintain service schedules. Bicycle and pedestrian traffic impacts were considered significant if designated bicycle or pedestrian facilities were likely to be closed. The availability and ability to designate alternative routes in our view represented opportunities to mitigate the closure impact.

18-31 Since the impacts of pipeline construction occur predominantly off-site and well away from the Bolsa Chica development project, it was considered prudent and necessary to identify a separate mitigation measure involving the preparation of traffic control/management plans.

18-32 Refer to response to Comment 18-30.

18-33 The CPUC appreciates the comment and the thinking behind it. Suggested edits were seriously considered, however the original wording was retained because this is standard CEQA language. The suggested word changes are just as subjective: What is meant by “values would be lost”? Value to whom? How should we measure the value?

18-34 Yes, once rupture of the pipeline is discovered water flow will be stopped. Crossing an active or potentially active fault is unavoidable for a pipeline beginning in Cypress and ending at Bolsa Chica Mesa. Mitigation Measure G-1 (page C.5-10) indicates that the geotechnical recommendations and pipeline design should identify current design schemes to partly mitigate the impact of fault offset causing pipeline rupture. The Draft SEIR does not suggest or recommend specific design alternatives or seismic mitigation schemes. The previous EIR did not consider the effect of fault offset on a 6.7-mile pipeline originating in Cypress and ending on the Bolsa Chica Mesa. Therefore, the CPUC does not recognize a failure to “consider the analysis that is in the certified EIR.”

Regarding the mitigation requiring additional studies if the project is approved, please see the response to Comment 13-2.

18-35 The SEIR preparers do not agree that the majority of the hydrology and water quality discussion was contained in the previous Bolsa Chica EIR. The previous EIR only evaluated impacts of the LCP, including development on the Bolsa Chica Mesa – it did not evaluate the construction of a 6.7-mile water transmission line. The summary of the impacts found in the

previous Bolsa Chica EIR is in Section E.6, page E-7, of the SEIR. By contrast, the SEIR only evaluates the impacts of the water transmission line and wastewater facilities, as found in Section C.6. These documents are not intended to be redundant.

18-36 The previous EIR was cited and, this being a supplemental document, the extensive discussion does not need to be repeated here. Pertinent points were, in fact, cited.

18-37 The pipeline terminus is within the jurisdiction of this project even though it is physically located within the property addressed in the earlier EIR. Therefore, some baseline data required repetition while other, more recently available data was added to complete the impact analysis.

Comment 18-36 questioned why the previous EIR was not cited whereas Comment 18-37 seems to state that too much of the previous EIR was cited. The EIR's cultural resources specialist (McKenna et al.) exercised professional judgment in deciding the extent of the citation.

18-38 The reference to site boundaries (C.7-7, Paragraph 4) is a generalized statement referring to the differing boundaries presented throughout the history of archaeological testing on the Mesa and is presented as background data. The purpose of the Draft SEIR is not to re-analyze all of the data from these studies, but to address the specific issues regarding the areas associated with the pipeline and its terminus on the Mesa. The intent of the statement was to emphasize that each study resulted in different boundaries and the area between sites has not been adequately addressed through subsurface testing designed to definitively identify site size. Rather, testing was predominantly limited to known site areas with no specific attention to the areas between the sites. Therefore, we have no data for the areas between the sites.

18-39 Again, discretion was used by the EIR's cultural resources specialist in the inclusion of data from the earlier EIR. When appropriate, similar language and results were incorporated. However, since the current project also includes areas not specifically addressed in the earlier EIR, some changes were also included.

The fact that the pipeline is located in a "built" environment does not preclude the potential for significant resources along the chosen route. Many major archaeological finds have been identified in urban settings (e.g., most recently in the Cahuenga area of Los Angeles County). Areas along the pipeline were discussed with respect to the relative sensitivity for cultural resources and recommendations reflect this analysis.

The mitigation measures for the Mesa were brought forward from the earlier EIR and some additional concerns and mitigation measures were addressed. As noted above, there are some serious concerns regarding the pipeline in the vicinity of the reservoir site, as previous testing in this particular area could not be documented. McKenna et al. believes the mitigation measures, as proposed, are adequate and address the issues of this particular project.

18-40 Correction made as suggested.

18-41 Natural vegetation is intended to mean native vegetation where it exists. This wording has been changed for the Final SEIR. If native vegetation is slow to recover, there is a good possibility that non-native species will become established in the area before the native vegetation has a chance to recover, effectively displacing the native vegetation.

18-42 We disagree that significance criteria should be focused on listed or designated species identified by state or federal agencies. There is nothing in CEQA or the CEQA Guidelines that suggests such a narrow definition of impact significance. A strong argument can be made that

there are a variety of impacts to biological resources that are individually or cumulatively significant, even if they do not involve impacts specific to listed species.

- 18-43 “Critical habitat” is meant to refer to critical habitat designated by the U.S. Fish and Wildlife Service pursuant to the Endangered Species Act. “Sensitive plant communities” are meant to refer to such communities designated by the State Department of Fish and Game. This has been clarified in the Final SEIR.
- 18-44 The preparers of the Draft SEIR contacted the Planning Division of the County of Orange during the preparation of the document. The County indicated that although it fully intended to change the zoning to accommodate the Bolsa Chica Planned Community, it had not, at the time of writing, done so.
- 18-45 This omission has been rectified, thank you.
- 18-46 We agree that the first school criterion is not relevant, and it has been deleted from the Final SEIR. However, we do not believe that the information on public services is redundant of the previous EIR. The SEIR largely describes facilities in the vicinity of the proposed water line, segments of which are located several miles from the study area of the previous EIR. In addition, the SEIR primarily focuses on impacts to service providers caused by construction in several miles of public streets. Such impacts were not discussed in the previous EIR.
- 18-47 The purpose of the alternatives analysis is described in the first sentence of Section D (“...identification and assessment of reasonable alternatives that have the potential for avoiding or minimizing the impacts of a Proposed Project.”). There is adequate reason for the SEIR to state that traffic and air quality impacts are unavoidable for the proposed pipeline route. It is not necessary or practical for evidence of significant impacts to only be presented in the form of quantified results that exceed a quantified threshold level. Even if such impacts were not considered significant and unavoidable, their importance should be readily apparent. The primary impacts of the Proposed Project are the effects associated with project construction (primarily air pollutant emissions, construction noise, and traffic disruption). Another likely effect of pipeline construction is the potential disruption of existing utility lines near the proposed pipeline alignment (see Section C.10 of the SEIR). Therefore, the SEIR strives to identify alternatives capable of reducing or avoiding such impacts, among others. It is appropriate for the alternatives analysis to attempt to identify alternatives that could reduce or avoid any of the potentially significant impacts identified in the SEIR, not just those considered significant and unavoidable.
- 18-48 See the response for Comment 18-7.
- 18-49 We believe that the SEIR adequately assesses the potential impacts of the Proposed Project. As described on page E-1 of the SEIR, the information concerning the previous EIR provided for the convenience of the reader. Unfortunately, most of the impact analysis and mitigation measures presented in the previous EIR are either not directly relevant to the proposed water line or not directly applicable from an implementation standpoint. Therefore, incorporating this information into Section C of the SEIR would not serve a meaningful purpose.