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Mr. Brad Wetstone  
California Public Utilities Commission  
c/o Aspen Environmental Group  
30423 Canwood Street, Suite 215  
Agoura Hills, CA 91301

Re: ***Comments on Draft Supplemental Environmental Impact Report for the Bolsa Chica Water Transmission Pipeline***

Dear Mr. Wetstone:

Southern California Water Company ("SCWC") submits the following comments on the Draft Supplemental Environmental Impact Report ("SEIR") for the Bolsa Chica Water Transmission Line (the "Project"), prepared in connection with SCWC's Application Nos. 98-11-003 and 98-11-015.

The Draft SEIR states, in the discussion of Project alternatives, that provision of water and wastewater service by the City of Huntington Beach (the "City") is a "feasible alternative" to the proposed Project. Draft SEIR at pp. D-10 to D-13, D-15 to D-18. As discussed below, SCWC disagrees that provision of water by the City is a feasible alternative to the proposed water transmission pipeline.

Section 15364 of the CEQA Guidelines, Cal. Code Regs. tit. 14, § 15364, defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." Further, Section 15126.6(f)(3) of the Guidelines provides that "[a]n EIR need not consider an alternative . . . whose implementation is remote and speculative." Under these standards, a determination of feasibility should not focus simply on whether an alternative is technically possible but must look to the totality of the circumstances, including political and social feasibility. Here, the longstanding political opposition to the Bolsa Chica project by the City and certain special interest groups makes clear that annexation of the Bolsa Chica Planned

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Community into the City is "remote and speculative," cannot be accomplished within a "reasonable time," if at all, and, consequently, should not be deemed feasible for purposes of the Final SEIR.

The City's longstanding and continuing opposition to any development within the Bolsa Chica area is well documented. Throughout the long history of land-use approvals and land-use litigation surrounding the Bolsa Chica area, the City has on a variety of issues taken positions against the ultimate development of the Bolsa Chica Planned Community. Most importantly, the City has voted to reject all of the proposals made by Hearthside Homes, the developer of the Bolsa Chica Planned Community (the "Developer"), for the provision of water service. Most recently, in June 1999, the Developer presented proposed "deal points" to the City that would govern a preannexation agreement. The City rejected the proposal, expressly seeking to preserve its right to oppose the planned development in proceedings before the California Coastal Commission. SCWC is informed that no further discussions concerning annexation have occurred between the City and the Developer. In light of the City's longstanding opposition, any Project alternative that requires approval or participation by the City must be deemed "speculative and remote" and not a feasible alternative. *See Resident's Ad Hoc Stadium Committee v. Board Of Trustees*, 89 Cal.App.3d 274, 288 (1979) (holding that a project alternative was properly rejected in an EIR where city officials had stated they were not interested in implementing that particular project alternative).

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Accordingly, the provision of water and wastewater service by the City is **not** a "feasible alternative" to the proposed Project within the meaning of the CEQA Guidelines. The Final SEIR should make such a finding.

Respectfully,



Patricia A. Schmiede  
of O'MELVENY & MYERS LLP  
Attorneys for Southern California  
Water Company

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**RESPONSE TO O'MELVENY & MYERS LLP**  
**Legal Counsel Representing Southern California Water Company**  
**Letter Dated January 19, 2000**

- 19-1 The concerns of the applicant are noted. The CPUC understands that there may be obstacles to this alternative. However, it should be remembered that a given alternative is *feasible* if it can be implemented. Feasibility refers to *ability*, not probability. Connection to the City of Huntington Beach system is a feasible alternative, notwithstanding the fact that the City and the applicant have not reached agreement to date. In addition, the scoping memorandum prepared by the CPUC Administrative Law Judge (dated March 16, 1999) specifically identified the prospect of the City providing water service as an issue to be addressed in the CPCN proceeding. It is therefore deserving of examination in the SEIR.