

**Statement of Stuart L. Somach,  
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**Before the  
Resources Committee  
Subcommittee on Water and Power  
U.S. House of Representatives**

**on  
H.R. 5796**

*A bill providing for the deferral of certain reimbursable costs associated with the unused capacity of the Folsom South Canal, Auburn-Folsom South Unit, Central Valley Project, and for other purposes*

**June 27, 2006**

Mr. Chairman and Members of the Subcommittee. My name is Stuart Somach and I am Special Legal Counsel to Sacramento County and the Sacramento County Water Agency. Thank you for the opportunity to testify on H.R. 5796 and for holding this important hearing. I would also like to take this opportunity, on behalf of Sacramento County and the Sacramento County Water Agency, to thank Representative Lungren, the sponsor of H.R. 5796, for introducing this important legislation and for his leadership on this issue.

In summary, the H.R. 5796 would defer the inequitable allocation of repayment costs associated with unused capacity of the Folsom South Canal of the Central Valley Project (CVP). Currently, only about 8.6 percent of the Canal's capacity is being used, yet municipal and industrial water users are shouldering 100 percent of the repayment obligation for the entire Folsom South Canal. By our best estimate, this inequity costs the ratepayers within the Sacramento County Water Agency and other CVP water municipal and industrial water contractors, approximately \$1.2 million a year. We ask for your assistance in deferring the allocation of these inequitable costs. This will provide Congress with the opportunity to consider proposals to permanently address the allocation of costs associated with the unused capacity of the Folsom South Canal.

In addition to providing for the deferral of repayment costs associated with the unused capacity of the Folsom South Canal, H.R. 5796 also addresses an inequity caused by the Sacramento County Water Agency's assumption of one-half of the Sacramento Municipal Utility District's (SMUD) CVP water service contract, and with it one-half of SMUD's capital repayment obligation. Sacramento County Water Agency does not and will not convey CVP water through the Folsom South Canal because it will convey its CVP water through the Freeport Regional Water Project facility, a joint use facility involving the County and the East Bay Municipal Utility District (EBMUD). The Freeport Project is being constructed to aid in preserving flows on the Lower American River. Notwithstanding the expenses associated with the construction of the Freeport Project, the County will continue to be required to pay capital, interest and operation and maintenance costs as if it conveys its full assignment of CVP water through the Canal. In this context, the County does intend to use the Folsom South Canal to convey non-CVP treated groundwater (in an amount not to exceed its CVP supply) that will be used to help restore the

declining Chinook fishery on the Consumnes River. Subsection (1)(e) simply ensures that Sacramento County is not required to pay twice for this limited use of the Canal.

The Folsom South Canal was originally designed to incorporate five Reaches or sections. To date, only two Reaches have been constructed, and even these two Reaches are overbuilt relative to current and projected usage. Reaches 1 and 2 were built for a maximum flow capacity of 3,500 cubic feet per second for the entire 26-mile length of originally designed Folsom South Canal, including the additional capacity to permit deliveries to the unauthorized East Side Division. It was originally envisioned that the Folsom South Canal would convey water to southern Sacramento County, San Joaquin County, and the San Francisco Bay Area. Because the East Side Division was never constructed, fall deliveries through the Folsom South Canal never materialized. In addition, EBMUD and SMUD are now projected to use much less water than when the Folsom South Canal was designed. SMUD is the only Central Valley Project contractor currently receiving water through the Folsom South Canal, yet SMUD is receiving no more than 70 cfs through the Folsom South Canal. EBMUD is anticipated to convey up to 155 cfs upon completion of the facilities at Freeport, leaving over 3,200 cfs of excess capacity built into the existing two Reaches of the Folsom South Canal. Furthermore, anticipated agricultural use of the Folsom South Canal has not occurred.

Because conveyance capital costs are pooled, all CVP contractors who use CVP conveyance facilities share in the repayment obligations for conveyance capital in relative proportion to use of all conveyance facilities. The balance of all conveyance facilities allocated to M&I is about \$50.2 million, of which the Folsom South Canal is approximately \$36.4 million. Relative to the other canal systems, the Folsom South Canal has a very high cost for the amount of use it receives. Again, because conveyance capital is pooled, all CVP contractors that use conveyance facilities would benefit from the deferral of costs associated with the unused capacity of the Folsom South Canal.

The deferral of costs that the Sacramento County Water Agency, SMUD, Santa Clara Valley Water District, EBMUD and others seek is not without precedence, even within the Folsom South Canal project itself. For example, Public Law 89-161 provided the Secretary of the Interior with the authority to defer \$2.4 million in costs associated with the Folsom South Canal allocated to the unauthorized East Side Division.

PL 89-161 states:

“... the Secretary is authorized to include in such canal and related operating structures such additional works or capacity as he deems necessary and economically justified to provide for the future construction of the East Side Division of the Central Valley Project, and the incremental costs of providing additional works or capacity in the Folsom South Canal to serve the East Side Division of the Central Valley Project shall be assigned to deferred use for repayment from Central Valley Project revenues. In the event that the East Side Division is authorized, such costs shall be deemed a part of the costs of that division and shall be reallocated as the Secretary deems right and proper.”

In addition, the concept of "cost deferral" is not unique to the Folsom South Canal. Congress has authorized cost deferral of other elements in the CVP and in other Reclamation Projects. It is the strong belief of the Sacramento County Water Agency that the same rationale should be applied to all unused capacity associated with the Folsom South Canal, not just the unused capacity associated with the East Side Division.

Mr. Chairman, Members of the Subcommittee, I urge your favorable consideration of H.R. 5796, and I would be happy to answer any questions you might have, at the appropriate time.

Thank you.