November 5, 2013

U.S. Department of Justice
Environmental Enforcement Section
Environment and Natural Resources Division
P.O. Box 7611
Washington, D.C. 20044-7611
Reference: DOJ Case No. [90-5-1-1-09215]

Via U.S. Certified Mail
RRR# 7012 1010 0000 4334 3292

U.S. Environmental Protection Agency, Region VI
Chief, Water Enforcement Branch (6EN-W)
Compliance Assurance and Enforcement Division
1445 Ross Avenue
Dallas, TX 75202-2733

Via U.S. Certified Mail
RRR# 7012 1010 0000 4334 3315

U.S. Environmental Protection Agency, Region VI
Attn: Ms. Judy Edelbrock (6EN-W)
Environmental Protection Specialist
Enforcement Branch
1445 Ross Avenue
Dallas, TX 75202-2733

Via U.S. Certified Mail
RRR# 7012 1010 0000 4334 3315

Mark Walters
Office of the Attorney General
State of Texas
Environmental Protection Division
P.O. Box 12548
Austin, TX 78711-2548
Reference: AG # 082508284

Via U.S. Certified Mail
RRR# 7012 1010 0000 4334 3278

Order Compliance Team
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Via U.S. Certified Mail
RRR# 7012 1010 0000 4334 3285

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, TX 77233-4480

Via U.S. Certified Mail
RRR# 7012 1010 0000 4334 3308

Re: Request to Modify Consent Decree
Consent Decree Date of Lodging: July 23, 2013
Consent Decree Date of Entry: October 15, 2013
CA No. 5:13-cv-00666-DAE, United States of America and State of Texas v. San Antonio Water System, in the United States District Court for the Western District of Texas, San Antonio Division

Dear Sir/Madam:

Section 110 of the Consent Decree provides that the Decree may be modified by a written agreement signed by all of the Parties to the Decree. The San Antonio Water System (SAWS) has identified a discrepancy in Paragraph 42 of the Decree that will require modification of the Consent Decree.

Paragraph 42 of the Consent Decree provides:

42. Capacity Remedial Measures Implementation. In general, SAWS shall plan and implement the approved Capacity Remedial Measures in accordance with the process and guidelines identified in Appendix D. Following receipt of EPA’s written approval, SAWS shall begin implementation of the Capacity Remedial Measures Plan on a balanced annual basis. SAWS shall complete all approved Small Diameter and Large Diameter Gravity Sewer Main Capacity Remedial Measures within four (4) and a half (1/2) years of receipt of EPA’s written approval of the Capacity Remedial Measures Plan. Should a specific Large Diameter Capacity Remedial Measures project require SAWS to obtain new easements and/or acquire land for more than twenty-five (25) percent of the length of that project or more than 2,500 feet, whichever is less, SAWS may at its option elect to complete that Large Diameter Capacity Remedial Measures project within up to six (6) and a half (1/2) years of receipt of EPA’s written approval of the Capacity Remedial Measures Plan. SAWS shall advise EPA in the Capacity Remedial Measures Plan of any specific Large Diameter Capacity Remedial Measures projects that SAWS wishes to complete in a maximum of six (6) and a half (1/2) years instead of four (4) and a half (1/2) years. For those projects that SAWS wishes to complete within six (6) and a half (1/2) years, SAWS shall explain in the Capacity Remedial Measures Plan the reasons why the need for new easements or land acquisition could not be avoided. Any modifications to the approved Capacity Remedial Measures Plan shall be in accordance with Section XVIII (Modification).

The highlighted words are typographical errors. For Capacity Remedial Measures, the EPA will approve the Capacity Remedial Measures Plan, not the plan for Condition remedial measures. SAWS will advise EPA of Large Diameter Capacity (not condition) Remedial Measures projects that it wishes to complete in six and a half years in the Capacity Remedial Measures Plan. In both of the highlighted instances the word “Condition” should be deleted and the word “Capacity” substituted. SAWS suspects that these typographical errors occurred when similar language for the Condition program (see paragraph 31 of the Consent Decree) was copied to make the Capacity program provisions consistent.

SAWS requests that Paragraph 42 of the Consent Decree be modified to provide that:
a. The word “Condition” be deleted wherever it appears in Paragraph 42.

b. Should a specific Large Diameter Capacity Remedial Measures project require SAWS to obtain new easements and/or acquire land for more than twenty-five (25) percent of the length of that project or more than 2,500 feet, whichever is less, SAWS may at its option elect to complete that Large Diameter Capacity Remedial Measures project within up to six (6) and a half (1/2) years of receipt of EPA’s written approval of the Capacity Remedial Measures Plan.

c. SAWS shall advise EPA in the Capacity Remedial Measures Plan of any specific Large Diameter Capacity Remedial Measures projects that SAWS wishes to complete in a maximum of six (6) and a half (1/2) years instead of four (4) and a half (1/2) years.

The format for recording the agreement of the parties to a modification of the Consent Decree is not prescribed in the Decree. SAWS suggests a proposed form of agreement that is enclosed for your consideration. If you have any questions or need clarification concerning the information provided, please contact me directly at 210-233-3747.

_I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering such information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations._

Sincerely,

[Signature]

Jeff Haby, P.E.
Director – Sewer System Improvements

Enclosure: Agreement to Modify Consent Decree
AGREEMENT TO MODIFY CONSENT DECREE

WHEREAS, on July 23, 2013, a Consent Decree between the San Antonio Water System ("SAWS"), the United States of America, and the State of Texas (collectively referred to as the “Parties” or individually as a “Party”) was lodged in Civil Action No. 5:13-cv-00666-DAE: United States of America and State of Texas v. San Antonio Water System, in the United States District Court for the Western District of Texas, San Antonio Division (the “Consent Decree”);

WHEREAS, on October 15, 2013, the United States District Court for the Western District of Texas signed and entered the Consent Decree;

WHEREAS, Paragraph 110 of the Consent Decree provides that the terms of the Consent Decree may be modified only by a subsequent written agreement signed by all the Parties;

WHEREAS, Paragraph 42 of the Consent Decree contains two typographical errors;

WHEREAS, SAWS requested that Paragraph 42 of the Consent Decree be amended to correct these errors;

NOW, THEREFORE, THE PARTIES TO THE CONSENT DECREE AGREE AS FOLLOWS:

1. Paragraph 42 of the Consent Decree is amended to delete the word “Condition” wherever it appears in the Paragraph and replace it with the word “Capacity.”
2. Paragraph 42 of the Consent Decree is amended to provide that should a specific Large Diameter Capacity Remedial Measures project require SAWS to obtain new easements and/or acquire land for more than twenty-five (25) percent of the length of that project or more than 2,500 feet, whichever is less, SAWS may at its option elect to complete that Large Diameter Capacity Remedial Measures project within up to six (6) and a half (1/2) years of receipt of EPA’s written approval of the Capacity Remedial Measures Plan.
3. Paragraph 42 of the Consent Decree is amended to provide that SAWS shall advise EPA in the Capacity Remedial Measures Plan of any specific Large Diameter Capacity Remedial Measures projects that SAWS wishes to complete in a maximum of six (6) and a half (1/2) years instead of four (4) and a half (1/2) years.
4. The Parties agree that the modifications to the Consent Decree made in this Agreement are non-material changes.
5. The undersigned agree to the terms of this Agreement to Modify Consent Decree on behalf of the respective Party for whom each of the undersigned executes this Agreement.
SAN ANTONIO WATER SYSTEM

By: Jeff Haby, P.E.
   Director, Sewer System Improvements
   Date: 11-3-2014

UNITED STATES

By: John Blevins,
   Director, Compliance Assurance and Enforcement Division
   U.S. Environmental Protection Agency
   Date: 4/6/15

By: Mark Pollins
   Director, Water Enforcement Division
   Office of Enforcement and Compliance and Compliance Assurance (OECA)
   U.S. Environmental Protection Agency
   Date: 2-23-15

STATE OF TEXAS

By: Ramiro Garcia, Jr.
   Deputy Director, Office of Compliance and Enforcement
   Texas Commission of Environmental Quality
   Date: 1/7/15