SOAH DOCKET NO. 582-12-5353
TCEQ DOCKET NO. 2011-1647-PWS-E

EXECUTIVE DIRECTOR OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, Petitioner	§	**BEFORE THE**
V.	§	**STATE OFFICE OF**
SOUTH TEXAS WATER AUTHORITY, Respondent	§	**ADMINISTRATIVE HEARINGS**

SOUTH TEXAS WATER AUTHORITY'S
REPLY TO THE EXECUTIVE DIRECTOR'S EXCEPTIONS
TO THE ALJ'S PROPOSAL FOR DECISION

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW, South Texas Water Authority ("STWA" or the "Authority") and files this, its Reply to the Executive Director's Exceptions to the ALJ's Proposal for Decision in connection with the remand of the above-captioned docket.

I.
DEFINITION OF A PUBLIC WATER SYSTEM

The ALJ in his Proposal for Decision in the remand of this Docket assumes that the Commissioners will find that STWA meets the Commission's definition of a Public Water System. At the evidentiary hearing on the remand, the ALJ indicated to the parties that he did not want evidence presented on the issue of whether or not STWA was a Public Water System, since that had been addressed thoroughly in the prior evidentiary hearing and was outside of the scope of the remand. The Executive Director has in its Exceptions only proposed minor changes to the Proposal for Decision and has accepted most of the ALJ's recommendations. STWA urges the ALJ and Commissioners to hold that STWA is not a Public Water System as defined by the Commission's rules. STWA by reference incorporates herein all of its prior arguments in support

of the conclusion that STWA is not a Public Water System. STWA has not waived its right to contest any finding or order of the Commission which concludes that STWA is a Public Water System.

II.
REASONABLE AND LOGICAL CORRECTION PROVISIONS

If the Commissioners find that STWA is a Public Water System, the order should contain corrective actions in a logical and cost-effective sequence. The Executive Director argues that modest operational changes including additional sampling along with the ammonia conversion at the Driscoll booster station will solve STWA's chloramine residual problems. The ALJ's Proposal for Decision only provides for corrective action to that stage, after which STWA would be subject to another enforcement action if the residual problem is not solved. STWA does not believe those actions recommended by the ALJ will be sufficient and recommends that the Proposal for Decision include one inline booster station between Driscoll and Kingsville. In addition, STWA recommends that a provision be added to the Proposal for Decision that gives the Executive Director authority to grant extensions of deadlines in the Final Order. STWA understands such provisions are common in agreed orders. Inclusion of such a provision in the Final Order will be very helpful if the ordered corrections do not solve the chloramine residual problems. Such a provision will allow the Executive Director and STWA to investigate and implement additional corrective actions without the need to bring this issue back to the Commissioners as a new contested enforcement action. STWA proposes the following section be added to the proposed order:

> "The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension

requests shall be sent to the Order Compliance Team at the address listed above."

Notice of Change of Address: Please note our new mailing address and physical address below. Our telephone number, telecopier number and email address remain unchanged.

Respectfully submitted,

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By: _____
Bill Flickinger
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ATTORNEY FOR RESPONDENT,
SOUTH TEXAS WATER AUTHORITY

CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2016, the foregoing document was filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day the foregoing document was served as indicated:

The Honorable Administrative Law Judge Craig R. Bennett
State Office of Administrative Hearing
300 W. 15th Street, Suite 504
Austin, Texas 78701-1649
Via Electronic Filing (SOAH Docketing)

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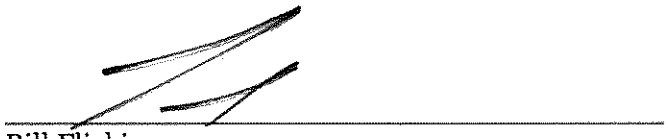

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