

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

March 5, 2024

Mary Smith
General Counsel
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg. F, Room 4225
Austin, Texas 78753

VIA EFILE TEXAS

RE: Docket Number 582-22-1990.TCEQ; Texas Commission on Environmental Quality No. 2021-1391-WR; San Antonio Water System

Dear Ms. Smith:

The Administrative Law Judges' Exceptions Letter contained a typographical error. On the last entry on the chart on page two, there should be a comma, rather than a period, in 51,247 acre-feet. Thus, the last entry on the chart should read:

PFD at 13, Finding of Fact 32	Change the volume authorized by CA 18-5177 from 32,614 acre-feet to 51,247 acre-feet.
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Exceptions Letter Correction

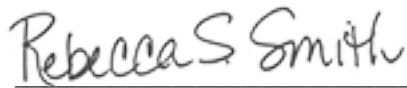
March 5, 2024

Page 2 of 2

ALJ Signature(s):



Heather Hunziker,
Administrative Law Judge



Rebecca Smith,
Administrative Law Judge

CC: Service List

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

March 1, 2024

Mary Smith
General Counsel
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg. F, Room 4225
Austin, Texas 78753

VIA EFILE TEXAS

RE: Docket Number 582-22-1990.TCEQ; Texas Commission on Environmental Quality No. 2021-1391-WR; San Antonio Water System

Dear Ms. Smith:

On January 22, 2024, Applicant San Antonio Water System (SAWS), Protestants Guadalupe Blanco River Authority (GBRA) and Union Carbide Corporation (UCC), and the Executive Director (ED) of the Texas Commission on Environmental Quality filed exceptions to the Proposal for Decision (PFD) issued on November 27, 2023. The same parties filed replies to those exceptions on February 12, 2024.

Many of these exceptions reurge arguments the parties made in their closing briefs, and the ALJs recommend not accepting those arguments for the reasons set out in the PFD. Nevertheless, the ALJs recommend making the following changes to the PFD and Proposed Order:

From SAWS's exceptions:

Finding of Fact 5	Insert "and reuse" after "divert"
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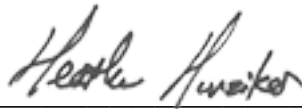
Finding of Fact 19	Change “diversion and use” to “diversion and reuse”
Finding of Fact 35	Change by adding “some of” to the finding: “The EA is the source of some of the groundwater SAWS pumps, and thus the source of some of the groundwater-based effluent at issue.”
Finding of Fact 37	Change “surface” to “state”
New Finding of Fact after Finding of Fact 40	The new finding of fact should read: “A CA evinces an existing water right that has been adjudicated.” Note that the ALJs are not recommending that Finding of Fact 40 be deleted.
Finding of Fact 44	Insert “current” before “Water Availability Model.”
Finding of Fact 49	Insert “TCEQ Docket Nos. 2006-1832-WR and 2006-1831-WR” after “under Section 11.042(b).”
New Finding of Fact after Finding 56	Add “Protestants’ water rights do not authorize a specific pattern of use, only an annual amount.”
Finding of Fact 63	After “channel losses” insert “from SAWS discharge points to the Mouth of the Guadalupe River.”
Conclusion of Law 6	Change “Protestant’s” to “Protestants’”
New Conclusion of Law 7	“SAWS’s intended use of 50,000 acre-foot of its currently surplus groundwater-based return flows for instream purposes is a beneficial use as defined in 30 TAC 297.1(26).”

From GBRA and UCC's exceptions:

PFD on page 8	When discussing CA 19-2162, the phrase "to divert effluent (50,000 AF)" should read "to divert effluent (60,000 AF)."
PFD at 13, Finding of Fact 32	Change the volume authorized by CA 18-5177 from 32,614 acre-feet to 51.247 acre-feet.

The ALJs recommend denying all remaining exceptions. With the changes set out above, the PFD and Proposed Order are ready for consideration.

Sincerely,



Heather D. Hunziker,
Administrative Law Judge



Rebecca Smith,
Administrative Law Judge

CC: Service List