February 9, 2018

Tanya Sommer
United States Fish and Wildlife Services
Austin Ecological Services Field Office
107011 Burnet Road, Suite 200
Austin, Texas 78758

RE: Amendment to "Use of the SAWS ASR for Springflow Protection" Measure (EAHCP §5.5.1)

On behalf of the City of New Braunfels (CoNB), the City of San Marcos (CoSM), Edwards Aquifer Authority (EAA), the San Antonio Water System (SAWS), and Texas State University (collectively the Permittees of the Incidental Take Permit #TE-63663A-1), I am providing an amendment to the Edwards Aquifer Habitat Conservation Plan (EAHCP) to revise the *Use of the SAWS ASR for Springflow Protection* Measure (EAHCP §5.5.1) in the EAHCP. This letter is submitted pursuant to Section 9.2.1 of the EAHCP.

The Edwards Aquifer Habitat Conservation Plan (EAHCP) currently includes a springflow protection program (ASR Program or Program) that utilizes the San Antonio Water System (SAWS) Aquifer Storage and Recovery Facility (ASR Facility) for storage and recovery of leased Edwards Aquifer water. Broadly, the current program is based on the acquisition by the Edwards Aquifer Authority (EAA) of 50,000 acre-feet per year of leases and lease options of Edwards Aquifer groundwater withdrawal permits to be utilized to fill, idle, and maintain in storage a portion of the capacity of the ASR Facility for subsequent use to protect springflows during identified drought-of-record conditions. When specific triggers (described in the EAHCP) are reached the EAA, when not utilizing leased water to fill the ASR Facility, is obligated to forbear pumping of the entirety of its leased or lease option water (50,000 acre-feet per year). This combination of SAWS and EAA forbearance contributes significantly to protecting flows at the Comal and San Marcos spring systems during the periods of drought conditions for which this program is triggered. The ASR Program has been in operation for over four years. During the course of implementation, firsthand experiences with implementation challenges and successes, as well as market responses to proposed leasing and lease-option products have contributed to the identification of opportunities to improve the operational and financial efficiencies of the EAA's water acquisition responsibilities under the ASR Program while providing the same or greater benefit to springflow protection.

This amendment does not modify in any way the Biological Goals or Objectives contained in the EAHCP, nor does it alter the requirements for SAWS. Rather, this amendment presents a preferred alternative to the process currently identified in the EAHCP by which those goals and objectives are achieved and implemented. Specifically, in order to optimize the Program's success, the EAA proposes to amend the leasing structure by (1) replace the current, three-tiered leasing/lease option structure with a simplified two-tiered leasing/forbearance agreement structure that coordinates existing long-term leases with new, long-term forbearance agreements (together providing control of the necessary 50,000 acre-feet per year of Edwards Aquifer groundwater); and (2) revise the Ten-Year Rolling Average of Estimated Recharge threshold used for triggering forbearance for EAA-controlled groundwater withdrawal rights to 500,000 acre-feet. Language change to the current measure in the EAHCP is provided in Exhibit 1.

Throughout 2016 and early 2017, the EAA internally vetted the issues identified with the ASR Program, and initially identified two potential advantageous modifications to the design of the Program. It was

generally assumed that the two modifications would (1) provide a more understandable and marketable product that will achieve long-term control of 50,000 acre-feet per year of Edwards Aquifer groundwater for forbearance by the EAA during the drought conditions that trigger the ASR Program; and (2) provide greater springflow during a repeat of such drought through the use of a more impactful, J-17 level-based forbearance trigger.

These proposed modifications were also presented to the SAWS ASR Regional Advisory Group at their February 14, 2017 and January 19, 2018 meetings, and were met with general support from the group. A Scientific Evaluation Report (SER) was produced and adopted by the Science Committee on January 31, 2018 to provide any necessary directive regarding the Adaptive Management Proposal (Exhibit 3) which was later supported by the Stakeholder Committee and adopted by the Implementing Committee on February 8, 2018. This process was in accordance with the Adaptive Management Process outlined in the Funding and Management Agreement (FMA) and results in this request to clarify and amend the EAHCP outlined in the final Nonroutine Adaptive Management Proposal and Stakeholder Report (Exhibit 2).

With that said, to further ensure transparency in the implementation of the EAHCP, the Implementing Committee provided the public the opportunity to comment on this amendment during its February 8, 2018 meeting. All meeting agendas and minutes from this process have been provided in Exhibit 4.

The Permittees seek your formal acceptance of this amendment to allow alterations to *Use of the SAWS ASR for Springflow Protection* Measure (EAHCP §5.5.1) Measure in the EAHCP. Your approval of this amendment will allow the Permittees to implement this critical aspect of the EAHCP. We look forward to your formal acceptance of the amendment and appreciate your consideration and response on this issue.

Respectfully,

Nathan Pence
Program Manager
Edwards Aquifer Habitat Conservation Plan

EXHIBIT 1

5.5.1 Use of the SAWS ASR for Springflow Protection

EAA will acquire through both lease and ~~option~~ forbearance agreements 50,000 ac-ft/yr of EAA-issued Final Initial Regular Permits. The EAA may use SAWS as its agent for this purpose. The leases and ~~options~~ forbearance agreements will be acquired by EAA to fill, idle, and maintain a portion of the capacity of the SAWS ASR Project for subsequent use, to protect springflows during identified drought-of-record conditions as described below.

The lease/forbearance agreement program is comprised of ~~three~~ two components. The first ~~one-third~~, a sliding scale approximating 10,000 to 16,667 ac-ft of permits, will be leased for immediate storage in the ASR. The remaining pumping rights will be placed under forbearance agreements ~~a lease option~~. ~~One-third (16,667 ac/ft)~~ The second, a sliding scale approximating 33,333 to 40,000 ac-ft of the total, will be ~~options~~ forbearance agreements exercised in the year after the 10-year moving annual average of Edwards recharge falls below ~~572,000~~500,000 ac-ft/yr, as determined by the EAA (see Section 6.2.3)~~, and is likely to continue to decrease. The last one-third will be options exercised when the 10-year moving recharge average is less than 472,000 ac-ft/yr, as determined by the EAA (see Section 6.2.3)~~. When the leases are in place, this water will either be pumped to fill the SAWS ASR or not pumped for any reason. When the forbearance agreements are in place, this water will not be pumped for any reason when the identified drought conditions are triggered. When the ASR is in recovery mode (i.e., when water is being returned from the ASR), the leased water will not be pumped. The water to fill the SAWS ASR is generally provided by SAWS from ~~their~~ its existing Edwards supplies and the ~~first one-third of the~~ regional leases water (10,000 to 16,667 ac-ft) which will be maintained at all times throughout the HCP duration. SAWS will store its own unused Edwards permits in addition to the HCP leases ~~and lease-options~~ in the ASR when possible. SAWS, with the assistance of the Regional Advisory Group will describe in the Annual Report the storage and recovery activities. Trigger levels for implementation of ASR management in accordance with the HCP will be 630 ft-MSL at the J-17 index well during an identified repeat of drought conditions similar to the drought of record as indicated by the ten-year rolling average of Edwards recharge of 500,000 ac-ft, as determined by the EAA. When triggered, the ASR or other supplies capable of utilizing shared infrastructure will be activated to deliver up to 60 million gallons per day to SAWS distribution system during a repeat of drought of record-like conditions. When the monthly average groundwater levels at J-17 are below 630 ft-MSL and the ten-year rolling average of Aquifer recharge is 500,000 ac-ft or less, pumping of selected wells on the northeast side of SAWS water distribution system will be reduced in an amount that on a monthly basis equals the amount of water returned from the ASR only to the extent of the Aquifer water provided by the EAA for storage in the ASR. SAWS will use up to 100 percent of the conveyance capacity of existing SAWS ASR facilities to off-set SAWS' Edwards Aquifer demand.

EXHIBIT 2

SAWS ASR Adaptive Management Proposal

(to be inserted)

EXHIBIT 3

Scientific Evaluation Report for the SAWS ASR Adaptive Management Proposal

(to be inserted)

EXHIBIT 4

Agendas and Minutes

Science Committee meeting (January 31, 2018)

Stakeholder Committee meeting (February 8, 2018)

Implementing Committee meeting (February 8, 2018)

(to be inserted)