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October 31, 2016

Mr. Mike Sandefur
Sulphur River Basin Authority
911 N Bishop Street Suite C-104
Wake Village, TX 75501

Re: Final Deliverable for Sulphur River Basin Instream Flow Study
(RPS #16015.00/2730.601.000)

Dear Mr. Sandefur:

We have received all comments to the Draft Report on the Sulphur River Basin Instream Flow Study and have finalized the report addressing the received comments. The Final Report, which represents our final deliverable and completion of our contracted scope of work is attached. A summary of the comments received and our responses is included below.

1. **Will this document eventually be stamped/signed by the engineers when it is in final form?**

   The Final report has been signed by J. Michael Pinckney PE with RPS and Tony L. Smith PE with Carollo Engineers.

2. **The precedent of SB3 as previously applied to certain other basins is being heavily relied upon in this analysis. However, I don't see any reference to which basins SB3 has actually been applied to, or when those regimes were first applied. Have any of those regimes been updated since their initial implication? A few more sentences elaborating on the other implementations might be helpful.**

   The following text has been added to Pages ES-1 and Page 1 of the final report:

   Environmental flow standards developed according to the SB 3 process have been adopted for the Sabine, Neches, Trinity, San Jacinto, Colorado, Lavaca, Guadalupe, San Antonio, Mission, Aransas, Nueces, Brazos, and Rio Grande River basins. These environmental flow standards are found in Chapter 298 of the Texas Administrative Code – Environmental Flow Standards for Surface Water Subchapters A-H. The adoption and effective dates of these regulations have varied in dates ranging from 2011 to 2014 depending on the river basin. The adoption schedule, as amended, requires the legislatively established committee known as the Environmental Flows Advisory Group (EFAG) to eventually establish a schedule for a process to develop such environmental flow standards for the Sulphur River Basin. At present, no such schedule has yet been established, nor have the adopted standards been modified to date.

3. **Page ES-1 and page 2 refer to developing a regime consistent with SB2 and SB3 framework, although I subsequently see only references to SB3 and nothing specific about SB2 (have I missed it?). Can a brief explanation of the relevance (or not) of SB2 be included? Also, why is no SB2 study scheduled for the Sulphur (per page 2)? Will one eventually be needed, and if so, why?**

   The following text has been added to Page ES-1 and made consistent with Page 2 of the final report:

   Senate Bill 2 (SB 2), established by the Texas Legislature in 2001, created the Texas Instream Flow Program (TIFP), establishing that the Texas Parks and Wildlife Department (TPWD), Texas Water Development Board (TWDB), and TCEQ conduct studies to determine appropriate methodologies for determining flow conditions in the State's rivers and streams necessary to support a sound ecological environment, focusing upon these multiple facets of riverine ecology. At present, no such SB 2 study is scheduled for the Sulphur River Basin. Such a study could be scheduled by the three agencies, under the direction of the Texas Legislature.

4. **How does SB3 contemplate future adjustments to initial E-flow regimes? Couldn't that adversely impact water supply, after-the-fact? Can the report speak to this possibility in general terms?**

   The following text has been added as a new Section 10.1.5 Potential Adjustments on Page 120 of the final report:

   10.1.5 Potential Adjustment

   The adopted SB 3 standards contemplate the potential impacts, both positive and negative, from future adjustments to adopted environmental flow conditions. Texas Administrative Code (TAC) §298.25(h) provides specific instruction regarding the process for adjusting environmental flow conditions in certain permits as follows:

   > *"(h) The environmental flow adjustment, in combination with any previous adjustments made under this section may not increase the amount of the environmental flow pass-through or release requirement for a water right permit by more than 12.5% of the annualized total of that requirement contained in the permit as issued or of that requirement contained in the amended water right and applicable only to the increase in the amount of water authorized to be stored, taken, or diverted under the amended water right permit. Any new permit conditions must be consistent with the environmental flow standards to the maximum extent practicable."*

5. **This report does not quantify the estimated water that would be released using the projected regime. Will such a calculation be made by SBG in their report?**

   As established by SB 3, previously adopted standards have been implemented based on pass-throughs of inflow to a reservoir, rather than releases of stored water (as indicated on page 126 of the Report).

An approach consistent with this precedent has been adopted herein. The implementation of the identified environmental flow guidelines has been provided to SBG.

Thank you for the opportunity to work with you and your staff on this project and I look forward to future opportunities to work with you again. Should you have any questions regarding this matter, please don't hesitate to contact me.

Sincerely,

W.H. Espey, Jr., Ph.D., P.E., D.WRE
Senior Vice President
RPS

Attachment

CC: Tony Smith, P.E. – Carollo Engineers
Michael Pinckney, P.E. - RPS

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