

**STATUS UPDATE:
APPLICATION OF ELECTRO PURIFICATION, LLC**

JULY 16, 2020

On April 7th, 2020, the Administrative Law Judges granted Electro Purification's ("EP") Motion to Continue Abatement of the State Office of Administrative Hearings ("SOAH") hearing regarding EP's groundwater production application (the "Hearing"). The ALJs' Order extended abatement through July 17, 2020 and required EP to file monthly status reports. On July 1, 2020, EP filed its Third Monthly Abatement Status Report ("Status Report") requesting the ALJs extend abatement another month through August 17, 2020 to allow EP to finalize a settlement of its litigation against Kinder Morgan. On July 16, 2020, the ALJs granted the abatement through August 17, 2020, when the parties are required to submit an agreed modified Hearing schedule. The Hearing is now estimated to occur no earlier than April of 2021.

In a complete reversal of prior representations, EP informed the ALJs in its recent Status Report that once settlement with Kinder Morgan is reached and the Hays County District Court issues Orders of Dismissal of the lawsuits, "EP will be in a position to move forward confidently and prosecute its pending Permit Application." EP's prior filings with the ALJs unequivocally represented that: (1) "the location of the pipeline easement, as pled by [Kinder Morgan] would disrupt, destroy or otherwise require the relocation of one or more of the existing seven wells drilled by EP on the Bridges and Odell Leases;" and (2) "there is a strong possibility that [EP] will be forced to withdraw its pending Application and start over with the application process." EP's Status Update failed to identify either a change to the Kinder Morgan pipeline's route or any other explanation of the changed circumstances.

TESPA and the aligned protestants filed a response to EP's Status Report asking the ALJs to require EP to provide more information for its drastically changed position and to extend abatement only if, and when, EP provides such information. Despite a year-long—and still ongoing—abatement premised upon EP's representations that the pipeline threatens EP's wells, EP replied to the Protestants' request that "it does not matter why EP believes it will not have to relocate any of its wells." TESPAs believed it, the County and other landowner protestants deserved more from EP. The Barton Springs Edwards Aquifer Conservation District did not oppose EP's abatement extension request.

TESPA will provide subsequent updates as information becomes available and once abatement ends. Please contact TESPAs Executive Director, Patrick Cox, with any questions.

APPLICATION OF ELECTRO § BEFORE THE STATE OFFICE
PURIFICATION, LLC, FOR WELL §
MODIFICATION AUTHORIZATION § OF
AND PRODUCTION PERMIT §
§ ADMINISTRATIVE HEARINGS

**ORDER NO. 13
DENYING MOTION TO DISMISS, GRANTING MOTION TO ABATE, AND
REQUIRING A PROPOSED PROCEDURAL SCHEDULE**

On March 31 2020, Electro Purification, LLC., (EP) filed an Unopposed Motion to Abate this case. As grounds for the motion, EP pleaded that the properties for which it seeks well modification authorization and a production permit are the subject of condemnation proceedings by a third party for a gas pipeline now under construction, and that EP may as a result, be required to withdraw its application and file a new one. EP filed suit against the parties seeking condemnation, but those proceedings were stayed because of the COVID-19 pandemic and the closing of the courts. The Administrative Law Judges granted the motion to abate and ordered EP to file monthly status reports. On July 1, 2020, EP filed its third monthly status report, and informed the ALJs that it had reached a settlement with the third party that, once it is finalized, will allow EP to go forward with its application in this case. EP asked for an additional abatement to finalize the settlement documents until August 17, 2020, at which time it would submit a proposed procedural schedule for this case.


Protestants Trinity Edwards Springs Protection Association (TESPA) and Donald F. Woods filed a response to EP's status report and a motion to dismiss on July 7, 2020. TESPAs and Mr. Woods argue that the request to abate for another month should be denied and the case dismissed because EP has not adequately explained the basis for its resolution of the conflict with the third party over the placement of the pipelines in conjunction with EP's proposed wells. On July 8, 2020, Protestant Hays County also filed a response, reiterating TESPAs and Mr. Woods's objection to abatement. EP filed a response to Protestants' motions, and Protestants replied to EP's response. The General Manager of Barton Springs Edwards Aquifer Conservation District filed a response on July 14, 2020, stating that it had no objection to the abatement requested by EP.

After reviewing the motion to abate, the motion to dismiss, and the arguments of the parties, the ALJs find the motion to abate has merit and it is **GRANTED**. The purpose of the abatement


was to allow EP time to resolve the issues regarding the pipeline planned by a third party and its possible interference with EP's proposed wells. EP has notified the ALJs and the parties that it has resolved the potential conflicts and is ready to proceed with the application after the resolution has been finalized. The terms of the agreement are not pertinent to the question of whether the contested case may proceed. Protestants' motion to dismiss is **DENIED**.

IT IS, THEREFORE, ORDERED that the case and all deadlines are abated until **August 17, 2020**, on or before which date the parties shall submit a new procedural schedule.

SIGNED July 16, 2020.



JOANNE SUMMERHAYS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



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ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS