

LAW OFFICES OF
McCARTHY & McCARTHY, L.L.P.

1122 COLORADO STREET, SUITE 2399
AUSTIN, TEXAS 78701
(512) 904-2310
(512) 692-2826 (FAX)

March 17, 2021

Barton Springs Edwards Aquifer Conservation District
Attn: Ms. Vanessa Escobar, General Manager
1124 Regal Row
Austin, Texas 78748

*via e-mail &
Certified Mail, RRR*

Re: Electro Purification, LLC's Application for a Groundwater Production Permit for
2.5 MGD from the Barton Springs Edwards Aquifer Conservation District

Dear Ms. Escobar:

Pursuant to my letter dated March 11, 2021, responding to your March 9th letter transmitting EP's July 17, 2017, Application for the 2.5 MGD Permit, I am returning EP's Application that you forwarded to me for the District's files. As indicated in my March 11th letter, EP has neither withdrawn its Application, nor requested that it be dismissed. By its January 16, 2021, Motion to SOAH to Nonsuit the hearing on the Application, EP requested, and the ALJ's Order No. 15 granted, EP's request to remand the Application to the District.

Please be advised that EP intends to continue to prosecute the Application. To this end, I would like to schedule a meeting with you and the District's General Counsel, and any appropriate BSEACD Staff Members, on or after April 1st to discuss EP's Application and chart a path forward for completing the evaluation of the Application and Board action on the same. This discussion will necessarily involve addressing the issues raised in your December 21, 2020, prefiled testimony in the prior SOAH hearing and, specifically, the new permit recommendation you included with that testimony.

Now that the Governor has withdrawn his Executive Orders related to the Covid-19 Pandemic, I would appreciate the opportunity to conduct this meeting in person, while observing appropriate "social distancing." I believe that Mr. Dugat's Firm's conference room where we have met on multiple occasions provides sufficient space for us to gather. That said, if Covid related issues continue to be a concern of the District's, we can arrange to conduct the meeting via ZOOM.

After you have an opportunity to consider this request, please advise me of both potential dates for the meeting, as well as your preferences with regard to the logistics of the meeting.

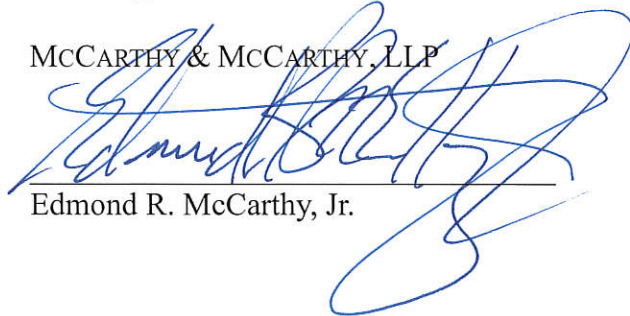
By copy of this letter, I am apprising the District's General Counsel, Bill Dugat, both of this action and my request on behalf of EP for a meeting.

March 17, 2021
Page 2

Best wishes.

Sincerely,

MCCARTHY & MCCARTHY, LLP



Edmond R. McCarthy, Jr.

ERM/tn
Encl.

cc (via e-mail): Bill Dugat, General Counsel, BSEACD
Electro Purification, LLC
Attn: Tim Throckmorton/Bart Fletcher, Co-Managers
Kaveh Khorzad, P.G., Wet Rock Groundwater Services LLC
Billy Gray
Eddie McCarthy



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

March 9, 2021

Via Certified Mail, Return Receipt Requested

Mr. Edmond R. McCarthy, Jr.
McCarthy and McCarthy, LLP
1122 Colorado Street, Suite 2399
Austin, TX 78701

Re: Return of July 17, 2017 Application of Electro Purification LLC

Dear Mr. McCarthy:

The purpose of this letter is to return the July 17, 2017 Application (Application) of Electro Purification LLC (EP). EP's February 4, 2021 nonsuit, dismissal, and remand in SOAH Docket No. 457-18-4589 (contested case) is considered by the General Manager (GM) as a withdrawal of the Application. EP is no longer prosecuting its Application with SOAH and there is no further action that the GM can take in connection with the remand. As a result, the Application is being returned.

The GM is in communication with SOAH to obtain a final billing for the contested case and will promptly refund to EP the balance of its deposit after that determination.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vanessa Escobar". The signature is fluid and cursive.

Vanessa Escobar
General Manager

Enclosure – EP Application Form July 2017

cc: Attached SOAH Docket No. 457-18-4589 Service List

SERVICE LIST

**APPLICATION OF ELECTRO PURIFICATION LLC FOR WELL MODIFICATION
AUTHORIZATION AND PRODUCTION PERMIT**

SOAH DOCKET NO. 957-18-4985

The Honorable Meitra Farhadi
The Honorable Ross Henderson
Administrative Law Judges
State Office of Administrative Hearings
300 W. 15th St., Suite 502
Austin, TX 78701

For Electro Purification, LLC:
Edmond R. McCarthy, Jr.
McCarthy & McCarthy, LLP
1122 Colorado, Suite 2399
Austin, TX 78701
ed@ermlawfirm.com

For TESPAs:
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Weber & Olmstead, LLP
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For TESPAs:
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For Donald F. Wood:
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Dana Pape-Salas
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danapsalas@gmail.com

Dalton and Peggy Pape (Life Estate)
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danapsalas@gmail.com

For St. Stephens Vestry, Church & School:
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William Webber
St. Stephens Episcopal Church
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patrickcox7@gmail.com
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Judi Baskin
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sissi@vintageoaksfarm.com

Donald F. Wood
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For Hays County:
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Frederick Perales Allmon & Rockwell, PC
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eallmon@lf-lawfirm.com

Mary Louise Bond
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secretwaterwarriorsociety@gmail.com

Jim Chisholm
PO Box 2281
Wimberley, TX 78676
jimchis51@gmail.com

John Vay (courtesy copy)
7600 N. Capital of Tex. Highway
Building B, Suite 200
Austin, TX 78731
jvay@enochkever.com

LAW OFFICES OF
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1122 COLORADO STREET, SUITE 2399
AUSTIN, TEXAS 78701
(512) 904-2310
(512) 692-2826 (FAX)

July 13, 2017

Barton Springs Edwards Aquifer Conservation District
Attn: John Dupnik, General Manager
1124 Regal Row
Austin, Texas 78748

via Hand Delivery

Re: Permit Applications for Electro Purification, LLC

Dear John:

Enclosed please find the following:

- 1) Electro Purification's Production Permit Application for Bridges Well Nos. 1, 2, 6 and 6, and Odell Well No. 2 (Appendix "A");
- 2) Electro Purification's Application for Well Modification Approvals for Bridges Well Nos. 1, 2, 3 and 4, and Odell Well Nos. 1, 2, and 3 (Appendix "B");
- 3) Wet Rock Groundwater Services, LLC's Report of Findings – Hydrogeologic Report of the Electro Purification, LLC, Cow Creek Well Field: Hays County, Texas (Report WRGS 17-001 (July 2017) (Appendix "C")); and
- 4) Electro Purification's Check No. 1035 payable to Barton Springs Edwards Aquifer in the amount of \$5,875.00 as filing fees for the above-referenced Applications (Appendix "D").

Also enclosed is a CD with electronic copies of the enclosed documents for your use in processing the Applications.

Please accept and process the enclosed Applications and supporting documentation on behalf of Electro Purification, LLC.

Should you need any additional information, or if there are additional fees due, please advise me. I can be contacted at the following: (512) 904-2313 (office); (512) 426-7138 (cell); or by e-mail at ed@ermlawfirm.com.

Thank you for your assistance. Best wishes.

Sincerely,

MCCARTHY & MCCARTHY, LLP



Edmond R. McCarthy, Jr.

ERM/tn
Encl.

cc: Electro Purification, LLC
Attn: Tim Throckmorton, Manager
Bart Fletcher, Manager

Wet Rock Groundwater Services, LLC
Attn: Kaveh Khorzad, P.G., President

Appendix "A"

Electro Purification's Production Permit Application
for Bridges Well Nos. 1, 2, 6 and 6, and Odell Well No. 2

Electro Purification, LLC:
**Production Permit Application for Bridges Well No. 1, Well No. 2, Well No. 5,
Well No. 6 and Odell Well No. 2**

for

Electro Purification, LLC
4605 Post Oak Place
Houston, TX 77027

Hays County, Texas
June 2017

WRGS Project No. 100-001-15



Wet Rock Groundwater Services, L.L.C.
Groundwater Specialists
317 Ranch Road 620 South, Suite 203
Austin, Texas 78734
Phone: 512-773-3226 • www.wetrockgs.com
TBPB Firm No: 50038

Attachment 1 – Application Forms





Complete this application to receive a permit to produce from an Alluvial, Austin Chalk, Edwards or Trinity well. Select the volume tier for which you are requesting and submit the appropriate application fee.

- \$ 500 - production volume requests less than 2,000,000 gallons per year
- \$ 750 - Tier 1 production volume requests > than 2,000,000 to 12,000,000 gallons per year
- \$ 1000 - Tier 2 production volume requests > than 12,000,000 to 200,000,000 gallons per year
- \$ 1500 - Tier 3 production volume requests > than 200,000,000 gallons per year

Section I. Owner Contact Information

Please check the box that appropriately describes the applicant: Land Owner/Grantor Lessee/Grantee

Well Owner /Applicant (Entity name): Electro Purification, LLC **Contact Person:** Mr. Tim Throckmorton

Physical Well Address: 7205 Old Kyle Road City: Wimberley Zip: 78676 County: Hays

Property lot size: 1346 acres

Email: mgsh2o.tx@outlook.com Primary Phone: 713-871-9486 Secondary Phone: _____

Check this box if the mailing address is the same as the physical address

Mailing Address: 4605 Post Oak Place City: Houston Zip: 77027 County: Hays

<p>Technical Consultant</p> <p>This is the person who may be employed by the applicant to complete this application on the applicant’s behalf.</p> <p>Consultant Name : <u>Wet Rock Groundwater Services, LLC</u></p> <p>Mailing Address: <u>317 RR 620 South, Ste. 203</u></p> <p>City: <u>Lakeway</u>, Texas Zip: <u>78734</u></p> <p>Primary Phone: <u>512-773-3226</u></p> <p>Secondary Phone: _____</p> <p>Email: <u>k.khorzad@wetrockgs.com</u></p>	<p>Alternate Point of Contact (Well Site Access)</p> <p>Contact Name : <u>Mr. Tim Throckmorton</u></p> <p>Mailing Address: <u>4605 Post Oak Place</u></p> <p>City: <u>Houston</u>, Texas Zip: <u>77027</u></p> <p>Primary Phone: <u>713-871-9486</u></p> <p>Secondary Phone: _____</p> <p>Email: <u>mgsh2o.tx@outlook.com</u></p>
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Section II. Supporting Ownership Documentation

1. **Property Deed.** Provide a complete copy of the recorded deed, showing current ownership, legal description, and a date recorded. If the applicant is a lessee/grantee then provide a copy of the recorded easement, lease, or memorandum of lease.
2. **Property Survey.** Provide a certified copy of the most recent property survey. If a subdivision plat is applicable, please also provide a recorded copy of the subdivision plat.
3. **Site Plan and Coordinates.** Provide a map of the property or a site plan showing the locations of the nearest property lines (50ft setback) AND the gps coordinate locations of the following:
 - the existing or proposed well,
 - the nearest septic tank/septic absorption field/ septic spray area (150ft setback),
 - the nearest potential sources of contamination (150ft setback).

Section IV. Permit Request

Requested Permit Type (i.e. Conditional Edwards; Historic Trinity): Trinity

Permit Volume Requested: 912.5 million gallons per year

Proposed Primary Use Type: public supply Other Proposed Use Types: _____

Section V. Declarations

Initial to indicate that the applicant has read and understands the following declarations.

- 21 The applicant agrees that water produced/withdrawn from the well in reference will be put to beneficial use at all times.
- 21 The applicant understands that failure to submit all required application items within the application review period will result in an administratively incomplete application and non-issuance of a permit.
- 21 The applicant will comply with the District Rules and Bylaws, all orders, and permits promulgated pursuant to the District Rules.
- 21 The applicant will comply with well plugging and capping guidelines set forth in these Rules and will report well closures as required in Rule 3-5.
- 21 Many of the incorporated cities within Travis and Hays Counties have ordinances concerning the drilling of wells within their city limits. It is your responsibility to comply with your city ordinances regarding the drilling of wells. The permits issued by the Barton Springs/Edwards Aquifer Conservation District do not confer any right to violate any city ordinances regarding drilling wells within city limits.
- 21 The applicant understands that this permit confers no vested rights in the holder and the permit is non-transferable. **Written notice must be given to the District by the permittee prior to any sale or lease of the well covers by the permit.**

Section VI. Applicant or Authorized Agent Sworn Statement

I hereby make application to the Barton Springs/Edwards Aquifer Conservation District for the purpose indicated above for the water well described herein, and I certify that I am the property owner/grantor or lessee/grantee or an Authorized Agent, and that each and all the statements herein are true and correct, and that I will comply with District Rules, Well Construction Standards, and groundwater use permit and plan requirements. I hereby authorize the District access to this property following reasonable advance notice or, in an emergency, immediately, with such emergency access reported to the owner if advance notice was not possible. The District may access the well for the purposes of inspecting, collecting water quality samples, and investigating conditions relating to the withdrawal, waste, water quality, pollution or contamination of groundwater.

Tim Throckmorton
 Signature of Applicant or Authorized Agent*
 (*Notarized Agent Authorization Form Required)

TIM THROCKMORTON
 Print Name

7-11-17
 Date

State of Texas, County of Harri . SWORN TO AND SUBSCRIBED before me by the said owner or agent on this
 the 11th day of July 2017.
Pat Moreno
 Notary Public, State of Texas

July 21, 2021
 My commission expires



For District Personnel Use Only

Application Fee Submitted on: / / Staff Initials Application Fee Amount: \$ Chk #:
 90 day / / 180day / /

Administratively Complete/Incomplete on : / / Signature of Staff
 Signature of General Manager Date: / /
 Permit Approval Date / / Approved by: Board or General Manager
 Drought Delay Yes No Authorized Pumpage Volume: Aquifer :
 Use Type: Permit Type & Term: